CANADA

Labour Legislation of the Past Decade

A review of developments in Canadian labour legislation in 1951-1960 period

Legislation Branch, Department of Labour, Canada

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Ten years have passed since publication in the 50th Anniversary Issue of the LABOUR GAZETTE of an article, "Fifty Years of Labour Legislation in Canada", which described the most important labour legislation in each decade from 1900 to 1950.

Now, the Legislation Branch of the Department of Labour has prepared this review of developments in labour legislation in Canada in the past decade. The review covers the most important steps that have been taken in the years 1951 to 1960 in respect to labour standards, labour relations and trade union legislation, safety of persons and property, workmen's compensation, equal opportunities for employment, and other matters.

Part 1—Labour Standards

Minimum Wages

All the Canadian provinces now have minimum wage laws. Prince Edward Island, the last province to enact such legislation, passed a Women's Minimum Wage Act in 1959 and an Act covering male workers in 1960. To date no orders setting minimum rates have been issued in Prince Edward Island. In all other provincial jurisdictions, minimum wage orders are in effect covering the entire province.

Under the Canadian system of minimum wage fixing, a minimum wage board has authority to fix* standards of minimum wages and to apply the minimum wage so fixed to all employees in the province or to any group or class of employees in an industry or in all industries. In the early years of minimum wage regulation, and particularly when minimum wages were confined to women workers, the Boards found it practicable and advisable to determine minimum rates and other working conditions for individual industries or occupations, with the result that as many as 40 or 50 orders were in effect at one time. In order to facilitate administration and to achieve more uniform standards, these orders were consolidated and reduced in number, individual orders being eventually replaced by general or blanket orders covering all types of employment.

The British Columbia Board of Industrial Relations has adhered to the practice of setting minimum wages on an industry or occupation basis, issuing a separate order for each industry or occupation. Revision of orders is a continuing process, and wherever practicable orders have been consolidated. Since 1950 the Board has made at least seven new orders governing trades and occupations not previously covered. Currently, about 40 minimum wage orders are in effect.

In the other provinces, the practice is to issue general orders setting rates applicable to most industries, supplemented in some cases by a small number of special orders setting different rates and working conditions for a particular trade, occupation or class of workers. In these provinces the trend in recent years has been towards a widening of the coverage of general orders and a reduction in the number of special orders.

In their setting of minimum rates under general orders, some Boards have allowed variations in rates on a regional or population basis or on the basis of sex. In Alberta, both a regional and a sex differential are provided for.

In Nova Scotia, Ontario and Quebec, rates are set according to zone. In Nova Scotia, the cities and towns are classified, according to population, in Zones I and II. Zone III comprises the rest of the province. In Ontario, the five largest cities constitute Zone I, centres of 3,000 population and over are included in Zone II, and places with under 3,000 population comprise Zone III. In Quebec, Zone I consists of the Greater Montreal area and Zone II takes in the remainder of the province. In Alberta and Manitoba, a distinction is made for minimum wage purposes between urban and rural areas, centres with over 5,000 population in Alberta being classed as urban.

* In most provinces Board orders require the approval of the Lieutenant-Governor in Council. In Manitoba and Newfoundland, the Board is merely empowered to make recommendations to the Lieutenant-Governor in Council concerning minimum rates.

In Nova Scotia, there is a difference in minimum rates of $2.40 a week between Zones I and II, and of $4.80 a week between Zones II and III. In Ontario, the difference between zones is $2 a week; in Quebec, it is 6 cents an hour. In Alberta, the regional differential is $4 a week; in Manitoba, there is a difference of 5 cents an hour between urban and rural rates.

In Newfoundland, New Brunswick and Saskatchewan, there is no regional differential in rates, any minimum rate set applying throughout the province. The same is true of British Columbia except in a very few cases where an order has been made for a designated area of the province.

Of the provinces which set minimum rates for both sexes (Nova Scotia, Ontario and, with the exception of one order, New Brunswick set rates for women only), only two allow a difference in minimum rates on the basis of sex. In Alberta, the differential between male and female rates is $2 a week; in Newfoundland, it is 15 cents an hour. In British Columbia, most orders are applicable to both sexes, setting the one rate for both. Exceptionally, however, in the orders governing factories and the fresh fruit and vegetable processing industry the Board has established minimum rates of 75 cents an hour for men and 60 cents an hour for women. These rates were made subject to the Equal Pay Act, i.e., they apply where men and women do different work.

In a few provinces, the Boards have set rates for young workers lower than the established minimum rate, in effect providing a differential on the basis of age.

In Manitoba, a minimum rate of 48 cents an hour is in effect for young workers under 18. This rate is 18 cents lower than the urban adult rate and 13 cents below the rural adult rate.

In Saskatchewan, lower rates for workers under 18, $2 less than adult rates, have been set since 1957. The current rate for young workers is $30 a week. For part-time workers under 18, rates are 5 cents an hour less than adult part-time rates.

In Alberta, the Board of Industrial Relations sets a graduated scale of minimum wages for male workers under 19.

Minimum rates in the Newfoundland orders apply to employees over 17. No rates have been set for workers under 17.

In one British Columbia order, that covering metal mining, the Board has fixed a minimum rate for young workers, requiring boys under 18 employed on a casual basis to be paid not less than 60 cents an hour. The adult minimum rate for metal mining is $1 an hour.

The most significant changes in minimum wage legislation during the past decade have been changes in coverage and the upward revision of minimum rates. Almost without exception, each revision of an order has resulted in an increase in the minimum rate. Developments in each province are discussed below.

Alberta

In 1952 the Alberta Board in effect divided the province into two zones for minimum wage fixing purposes by setting higher minimum rates for its four largest cities—Edmonton, Calgary, Lethbridge and Medicine Hat—than for the rest of the province. (At the same time a maximum 44-hour work week was put into effect in these four cities, in place of the maximum 48-hour week prevailing elsewhere in the province.) The minimum rates set were $26 a week for men and $24 for women as against $25 and $20 elsewhere in the province.

In 1956, a different division of the province was provided for, the urban rate being applied to all cities and towns with a population of over 5,000, and lower rates, $4 less in each case, being set for rural areas. The rates set in 1956 remain in effect.

In Alberta, the minimum rates set are weekly rates, with an hourly part-time rate for workers who normally work less than 40 hours in a week. Current rates for men are $30 a week in centres with over 5,000 population and $26 in the rest of the province. Corresponding women's rates are $28 and $24 a week. Learners' rates, applicable for a three-month learning period, are set for women workers only. Not more than 25 per cent of the total female staff in an establishment may be paid learners' rates.

Lower rates than the full minimum are set for young male workers under 19, according to age. Before 1956 these rates were set for workers under 21, but in that year the age of male workers eligible for the full minimum rate was lowered from 21 to 19 years. Consequently, rates for young male workers now apply to those under 17 years, those between 17 and 18, and those between 18 and 19 years.

In addition to the four general orders, the Board has made a number of orders for special industries or classes of employees, many of them combined hours of work and minimum wage orders. These orders permit the working of extended hours in the industry or occupation concerned (often 10 hours in a day and 208 hours in a month), and lay down the

overtime rate (usually time and one half the regular rate) that must be paid after the limits prescribed. Under the general orders, time and one half the regular rate must be paid for work done after 9 and 48 hours, or after 9 and 44 hours in the four largest cities.

British Columbia

In their setting of minimum rates during the fifties, the British Columbia Board continued a policy first begun with the setting of a 75-cent rate for carpenters in 1938 and 1939, i.e., the setting of minimum rates based on skills. These rates were considerably higher than the basic minimum rates set previously and were more akin to the minimum rates set in industrial standards schedules in some of the other provinces.

In response to requests from employers and trade unions, and taking into consideration the prevailing rates in the trade concerned, the Board set minimum rates that reflected the basic skills of the particular classification of tradesmen, e.g., $1.25 an hour for machinists and for journeymen in the refrigeration trade. For the sheet metal trade the rate, first set at $1 an hour in 1948, was raised to $1.25 in 1952 and later to $1.50. In 1955 a $1.50 minimum rate was set for tradesmen in all branches of the construction industry and a rate of $1 for other employees. When the construction order was again revised in 1960, a rate of $2 an hour was established for tradesmen (the highest rate in effect in the province) and $1.30 for other workers. Comparable rates are $1.50 an hour for electronic technicians and $1.75 an hour for journeymen-tradesmen in the shipbuilding industry.

The minimum rates for factories, shops and offices, etc., are more in line with the rates set under general orders in the other provinces. Many of the British Columbia orders, however, set a comparatively high minimum rate. For factories, rates of 75 cents and 60 cents an hour for men and women workers, respectively, are in effect. The rate for shops, hotels and restaurants is 65 cents an hour, and the rate for offices and laundries is 75 cents an hour.

On the other hand, a rate of $1 an hour has been set for geophysical exploration, logging and sawmills, metal mining, cook and bunkhouse occupation in unorganized territory, bus operators, trucking, patrolmen, and the woodworking industry. The minimum rate for first aid attendants is $1.25 an hour and for pipeline construction and oil well drilling and servicing, $1.30 an hour.

During the decade the Board for the most part discontinued its former practice of setting weekly minima in favour of setting an hourly rate. In revisions of orders for shops, offices, hotels and catering, elevator operators and public places of amusement, weekly and part-time rates were changed to hourly rates. In only a few orders, those covering barbering, hairdressing, hospitals, personal service occupations and the undertaking business, are weekly and part-time rates now set. In hairdressing a weekly rate of $35 is set for employees whose work week consists of 39 hours or more, and an hourly rate of 90 cents is applicable to those who work less than 39 hours. In the other occupations, weekly rates apply to those who work 40 hours or more, hourly rates to those working less than 40 hours.

The Board continues to set lower rates for learners in certain industries. Learners' rates were dropped, however, from the hotel and catering and hairdressing orders in 1952 and from the order covering amusement places in 1960. A definite trend in the setting of learners' rates since 1956 has been a reduction in the learning period. For factories, shops, laundries and woodworking, the learning period was reduced from six months to six weeks, and for offices it was reduced from four months to two. The only other orders in which learners' rates are set are those governing hospitals and automotive repair (parts department). In these orders the learning period remains six months. Before employing a worker at learners' rates, an employer must obtain a permit from the Board.

By amendments to the Minimum Wage Acts in 1953, the Board was granted further powers with respect to the setting of overtime rates. Previously, the Board had had authority only to fix an overtime rate payable after 44 hours, i.e., in cases where, under powers conferred by the Hours of Work Act, it allowed the statutory weekly limit of 44 hours to be exceeded. The amendments enabled the Board to set an overtime rate payable after a lesser number of weekly hours than 44.

As a result of these amendments, uniform working conditions could be established on large construction projects, where some workers might be paid overtime rates after 40 hours according to the terms of a collective agreement and others, working for another employer and not covered by a collective agreement, might be paid overtime after 44 hours, as required by a minimum wage order.

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Under this authority the Board has required payment of the overtime rate (time and one half the regular rate) after a 40-hour week in orders covering pipeline construction (1956), shipbuilding (1960), and the construction industry (1960). Normally, under most orders, where overtime is allowed under permit, payment of the overtime rate is required after 8 hours in a day or 44 hours in a week.

In two or three instances the Board has set punitive overtime rates as a means of exercising some control over the working of excessive hours. In fresh fruit and vegetable processing in the busy season (June 1—November 30), during which time the industry is exempted from the Hours of Work Act, time and one half the regular rate must be paid for the first two hours worked after 9 in a day, double time after 11 hours and, if overtime is not calculated on a daily basis, time and one half after a 54-hour week. For the rest of the year the usual overtime conditions (time and one half after 8 and 44 hours) apply. This method of regulation has been the one used in the trucking industry since 1948. It was tried briefly in the taxicab industry but was abandoned in 1952 in favour of a requirement that each taxi driver should be paid his regular rate plus an additional 30 cents an hour for all hours worked in excess of 9 and 48 hours.

The Board no longer sets maximum charges or deductions which may be made for board and lodging in its orders governing hotels and catering, resident janitors and elevator operators. Instead, the orders stipulate that an employee may not be required to partake of meals or make use of lodging as a condition of employment, and give the Board supervisory powers over the adequacy of any services provided. If the Board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Manitoba

In 1957 the Manitoba Employment Standards Act was enacted, replacing the former Minimum Wage Act, the Hours and Conditions of Work Act and the Factories Act.

As regards minimum wages, a new feature of the Act is its provision for the appointment of one or more Minimum Wage Boards, each to perform its duties within the area for which it may be appointed. Only one Minimum Wage Board is presently functioning.

The Board's powers under the new legislation are confined to making recommendations regarding minimum wages and do not extend to the regulation of other working conditions. In deciding upon its recommendations, the Board is to be guided by "the cost to an employee of purchasing the necessities of life and health" and, in determining the amount needed, it may conduct inquiries and hear representations from interested persons.

Minimum rates were raised in 1952, 1957 (for women only) and 1960. In 1952 weekly and part-time rates for women were replaced by hourly rates. Since 1957 a single rate has been set for boys and girls under 18.

A significant change in 1960 was the removal of the differential based on sex. The previous rates for women were 54 cents an hour in rural areas and 58 cents in urban centres. The rate for men was 60 cents an hour. The new order set the same rate for both sexes, allowing, however, a 5-cent differential between urban and rural rates, which are now 66 cents and 61 cents, respectively. This differential, according to the Board, is justified because of the difference in transportation costs.

In 1952 higher limits were set on the amount of overtime that might be worked by women. These limits are 3 hours in a day, 12 hours in a week, and 24 hours in a month. No employee under 15 is permitted to work any overtime. There are no restrictions on overtime for men.

Minimum rates in Manitoba apply to an 8-hour day and 44-hour week for women and to a 48-hour week for men. For time worked beyond these limits an overtime rate (time and one half the minimum rate) must be paid. This provision has somewhat limited application since it applies only to employment which is not within the scope of the hours provisions of the Employment Standards Act. Part III of the Employment Standards Act (hours of work legislation), which applies to the major industries in the chief industrial areas of the province, requires time and one half the *regular* rate to be paid for work done after 8 and 48 hours (44 hours for women).

A new provision regarding overtime was added to the order in 1957. This states that, where men and women are doing identical or substantially identical work in an establishment, the employer may apply to the Manitoba Labour Board for an exemption from the obligation of paying employees of one sex on a different basis from that applicable to the other sex. If approval is given, the employer would be permitted to pay women employees the overtime rate after 48 hours instead of after 44.

Somewhat different provisions regarding uniforms were added to the order in 1952. Where the wearing of a uniform is re-

quired, it must be provided by the employer without charge to the employee. Where, however, an employee is paid more than the minimum overtime rate, a charge may be made, subject to the provision that no charge may be made for furnishing, laundering or maintaining uniforms that would bring an employee's earnings below the minimum hourly rate. Further, the Minister has discretion to fix or limit the amount of charges or may prohibit the making of any charge.

A new provision in 1957 had to do with deductions for meals. It stated that an employer who is engaged in the business of supplying meals to customers may not charge an employee more than half what a customer would pay for the same meals. Other employers may not deduct more than 35 cents a meal or $7 for a week's board, whichever is lesser.

In other amendments the Minister was given general supervision over the payment of wages and authority to require weekly payment if he considered it desirable. Women employees may not be paid less frequently than twice a month. Wages must be paid within three days of the completion of the pay period in which they were earned, unless written permission to do otherwise is obtained from the Minister. An employee discharged by his employer must be paid the wages due him within three working days after his employment is terminated.

More supervision of home work was provided for in 1957. Any employer intending to give out home work must register with the Minister. The orders do not set a minimum wage for this work but the Minister, in his absolute discretion, may impose "conditions and limitations" upon the work in so far as payment is concerned. Formerly, under the Factories Act, the employer was required to keep a register of home work given out but full particulars of the type and amount of work done by each employee and the wages paid must now be recorded.

As a means of informing workers of the minimum rates to which they are entitled, employers were required, under the order as revised in 1957, to furnish a copy of the minimum wage order to each employee. This requirement replaced a provision requiring posting of the order. As amended in 1960, the order now provides for distribution to each employee or posting, or both, of a summary provided by the Minister, at the request of an officer of the Department of Labour. As before, the requirement does not apply to employees covered by collective agreement, presumably on the supposition that union members will be made aware of the statutory conditions covering their employment by their union.

Newfoundland

In Newfoundland, a new Minimum Wage Act was passed in 1950, repealing the Labour (Minimum Wage) Act, 1947.

The first steps in minimum wage-setting were taken in 1953, when a general order was made for male workers, excluding only farm workers and market gardeners. This order set a minimum rate of 50 cents an hour for hourly-paid male workers over 18 and required payment of time and one half the minimum rate after 10 hours on a weekday or for any work done on Sunday.

In 1955 a general order for women workers was issued and the male order revised to lay down the same conditions for both sexes, apart from a difference in the minimum rate. The minimum rate for men remains 50 cents an hour; the rate for women is 35 cents. Both orders apply to employees over the age of 17. Where a worker is paid at an hourly rate, overtime (time and one half the minimum rate) is payable after eight hours on a weekday and for any Sunday work. Where an employee is paid a fixed weekly or monthly wage, he must be paid the overtime rate after 48 hours in a week.

The Newfoundland Board is required by statute to review its orders every two years.

New Brunswick

The first orders for women workers in New Brunswick set weekly and part-time rates but these were changed to hourly rates in 1950, the first such rate being 35 cents an hour for a 48-hour week or less. The minimum rates in the two orders for women (a general order and an order for hotels and restaurants) have been raised from time to time and are now 55 cents an hour for hotels and restaurants and 60 cents an hour for other workplaces. Overtime at time and one half the minimum rate must be paid after 48 hours or the hours normally worked in the establishment, if less than 48.

Only one order is in effect for male workers. This order sets a minimum rate of 65 cents an hour for the canning industry.

Nova Scotia

In 1951 a new Women's Minimum Wage Act was passed in Nova Scotia, which, while similar in principle to its predecessor, was more in line with the Acts of the other provinces. More specific provision was made for inspection, and the Minimum Wage Board was given wider powers,

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including power to regulate the making of deductions, to fix the time and manner of payment of wages, and to exempt any group of employees or employers from the Act or a minimum wage order. Orders now required the approval of the Lieutenant-Governor in Council, and posting of the orders by employers was required.

One of the new features of the Act was its application to the whole province; the previous statute had been restricted to the cities and incorporated towns. Minimum wage orders continued to apply to the cities and towns until 1958, when employment outside the towns was covered for the first time.

As in other provinces, minimum wage orders were consolidated. In 1951 one general order was issued, replacing 10 separate orders covering as many different industries. Since 1951 three special orders have been made, one covering summer employment in hotels within 20 miles of a city or town (now incorporated in the general order) and the others, which remain in effect, covering beauty parlours and the fish-processing industry.

Minimum rates were raised by $1.80 a week in 1951 and were again increased, along with the change in zoning mentioned above, in 1958. Rates are now $21.60, $19.20 and $14.40 a week for the three zones into which the province is divided.

In 1957 new provisions regarding the payment of overtime were laid down in the general order and the order for beauty parlours. Previously, payment of overtime (at time and one half the minimum rate) was required for work done after 48 hours in a week or after the regular work week in an establishment, if less than 48, but only with respect to employees who were being paid at the minimum rate. The amendments extended the application of the overtime provision to employees whose normal rate of pay was *above* the minimum. That is, all employees covered by the orders were now entitled to overtime pay after working 48 hours or normal hours, if less.

Learners' rates were dropped from the general order and the order for fish processing in 1958 but were restored in amendments made the same year. In place of learners' rates for a six-month learning period (the minimum rising at the end of three months), the general order now sets one rate of $18 a week payable for a probationary period of 90 days following commencement of work for all workplaces in Zones I and II (the cities and towns). In Zone III (the rest of the province) the minimum for experienced workers and learners alike is $14.40 a week. In the fish-processing industry a learners' rate of 37½ cents an hour may be paid during a 90-day probationary period. The full minimum rate for the industry is 45 cents an hour. For beauty parlours the learning period was reduced from 18 months to nine months.

A further change in 1958 was that, instead of a provision limiting the deductions that could be made from the minimum weekly rate where board and lodging are furnished by the employer, the general order set out the maximum charges that an employer may make for these services.

Ontario

Minimum rates in Ontario, which are applicable to women only, were raised in 1955 and again in 1960. These rates, which are set for three zones, apply to a work week of not more than 48 hours or the prevailing work period in an establishment, if less than 48 hours. Hours worked after the weekly limit must be paid for on a *pro rata* basis.

In 1955 current rates, which since 1947 had been $16.80, $15.80 and $13.80 a week respectively for the three zones, were raised to $22, $20 and $18. In 1960, a further increase of $8 a week was put into effect, making the present minimum rates $30 in Zone I, $28 in Zone II and $26 in Zone III. Increased deductions for board and lodging, when supplied by the employer, were also authorized. Learners' rates, which apply during a period of six months, were increased correspondingly. An employer may not class more than 20 per cent of his female employees as inexperienced workers.

Prince Edward Island

In Prince Edward Island, the Government, acting on a resolution of the Legislature, appointed a committee to study minimum wage legislation in 1956. Both Acts which have since been enacted, one covering female workers and the other covering males, provide for the setting of minimum rates by a board established under other legislation, the Labour Relations Board appointed under the Trade Union Act.

Both Acts contain the standard provisions found in other provincial minimum wage legislation. The Act respecting a minimum wage for men stipulates that orders of the Board setting minimum rates for men are subject to review by the Minister of Labour. No minimum wage orders have yet been issued.

Quebec

During the past decade, the Quebec Minimum Wage Commission continued its policy of simplifying minimum wage orders and reducing their number. Workers formerly covered by separate orders (which were permitted to expire) were made subject to General Order 4, the blanket order covering the majority of unorganized workers in the province. In 1950 a separate order (No. 41) was issued for employees of municipal and school corporations, and in 1957 a new order (No. 40) was made for employees of hotels, restaurants, hospitals and real estate undertakings. These three orders—Nos. 4, 40 and 41—and the forestry order (No. 39), which has been in effect for many years, are all the minimum wage orders now in effect.

The order for municipal and school corporations sets the same minimum rates as Order 4, except for a few occupational groups. Minimum rates for employees in hotels, restaurants, hospitals and real estate undertakings are somewhat lower than those fixed by Order 4. Their current minimum is 64 cents an hour in Zone I and 60 cents in Zone II.

A reduction in the number of zones for which minimum rates are set has had the effect of making workers in the smaller centres eligible for a higher minimum rate, as well as of narrowing the differential between the highest and lowest minimum rate.

In 1953 the number of zones was reduced from four to three, by combining the former Zones III and IV (places with from 2,000 to 10,000 population, and places with under 2,000 population, respectively) to form a new Zone III.

In 1957 a change in the size of towns included in Zone II—those with 6,000 population and over instead of 10,000 and over—made a large number of workers eligible for a higher minimum rate.

In a further revision, effective May 1, 1960, the number of zones was reduced to two, Zone I now comprising the Greater Montreal area, and Zone II the remainder of the province.

In 1953 Order 4 was revised and rearranged in a more concise form on the basis of a classification of workplaces according to the length of the "regular work week" rather than, as before, on the basis of categories of workers. Minimum hourly rates applied to the hours in the "regular work week", which varied with different establishments. For any work done after the hours in the regular work week payment of an overtime rate was required.

Under this arrangement, 48 hours constituted the regular work week for most establishments, with establishments having a 54-hour regular work week, a 60-hour regular work week or no regular work week being listed as exceptions. (Establishments with a 48-hour work week were not listed, all those for which a longer work week was not fixed being deemed to have a work week of 48 hours). Workers having no regular work week were not entitled to payment of overtime.

In 1953 provision for the payment of overtime on a daily basis (after 12 hours) was discontinued, and a significant feature of successive revisions of Order 4 and the other orders has been the progressive reduction of the regular work week.

In 1957 the classification of the 60-hour regular work week was done away with, and in the latest (1960) revision the 54-hour regular work week is no longer prescribed for certain workplaces. The result is that fewer exceptions are now authorized from the general standard of 48 hours. In 1960 the regular work week of employees of municipal and school corporations was reduced from 54 to 48 hours, and that for employees in hotels, restaurants, hospitals and real estate undertakings from 60 to 54 hours.

A further change in 1960 was in regard to the rate of overtime pay set by the orders. Since 1946, when the Minimum Wage Commission was given specific authority to fix overtime rates of pay for hourly-paid workers not governed by a collective agreement, it had set an overtime rate for these workers of time and one half the *regular* rate, and, for other employees, an overtime rate of time and one half the *minimum* rate. The orders now set one rate for overtime work (i.e., for hours worked in excess of the regular work week)—time and one-half the *minimum* rate. As before, employees paid on a weekly, monthly or yearly basis and receiving at least a specified minimum amount are not eligible for overtime pay.

A new departure in 1953 was the setting of minimum rates for inexperienced employees, defined as employees who "in addition to apprentices, are not occupied at skilled labour or at labour requiring training and who, because of their restricted ability, cannot furnish the output of a skilled worker." The number of such employees was limited to 20 per cent of the work force of an establishment. Previously (from 1946-1953), 75 per cent of the workers in a factory or shop were required to receive the minimum rate, and lower rates were

set for the remaining 25 per cent. As enacted in 1942, Order 4 set three different rates for work in industrial or commercial establishments, applying to 60, 25 and 15 per cent, respectively, of the work force.

The inexperienced workers' rates set in 1953 were not, strictly speaking, learners' rates, since they were not set in relation to a definite learning period, i.e., inexperienced workers were not required to get periodic increases. They were rather rates set for workers from whom skilled work was not expected or required.

These inexperienced workers' rates and the 20 per cent quota were removed from the orders in 1960, the only lower rates now prescribed being for piecework employees and for employees on probation in hospitals in their first six months of employment. Such employees must now be paid at least 56 cents an hour in Zone I and 52 cents in Zone II.

Minimum rates under Order 39 governing forest operations have been progressively raised, and the order has been greatly simplified.

In 1950 daily instead of monthly rates were fixed. In 1958, instead of rates set on an occupational basis, new general hourly, daily and weekly rates were set for all workers other than pieceworkers, the determining factor being the extent to which the working hours of an employee could be controlled. For employees whose hours were verifiable, the order set a minimum rate of 75 cents an hour; for those whose hours could not be verified the rate set was $7 a day; and for employees without a regular work week a minimum of $42 a week was prescribed. Corresponding rates for inexperienced or handicapped workers were 50 cents an hour and $5 a day. In addition to these changes, the regular work week for woodsworkers was reduced from 60 to 54 hours.

A major change in 1960 was that a new daily minimum of $9 was set for pieceworkers. Previously, 11 different rates were prescribed, varying with the type of work performed. A later amendment, however, reinstated per cord piecework rates in pulpwood operations. Rates of workers hired on a fixed wage basis were raised to 90 cents an hour, $8 a day or $48 a week, depending on the extent to which hours may be controlled.

Rates for inexperienced workers, defined as in Order 4, were dropped but slightly higher rates than those set previously (60 cents an hour for employees whose hours are verifiable and $6 a day for those whose hours are not verifiable or who have no regular work week) were set for pieceworkers who have not worked 12 working days.

As in other orders, the rate set by Order 39 for overtime is time and one half the minimum rate. Previously, forestry workers were entitled to their regular rate for overtime.

Saskatchewan

In Saskatchewan, the extension of the coverage of the Minimum Wage Act and orders to places with a population of under 300, effecting province-wide coverage, and the removal of the differential between urban and rural areas were important developments in the past decade.

At first applied only to cities, the scope of the Saskatchewan Act was progressively extended to cover additional towns, villages and hamlets until, by a final step in 1953, it was made applicable to the entire province. The differential between urban and rural rates, although narrowed to $1 a week in 1957, was maintained until 1960, when the orders were amended to establish one minimum of $32 a week for all employees of 18 and over in the province, except those covered by special orders.

Since 1950 the Act has been amended several times, adding to the Board's powers to determine minimum wages and other working conditions and providing a new and alternative basis upon which minimum wage standards may be set.

An amendment in 1957 empowered the Board to determine the minimum wage on the basis of an amount which it deemed fair and reasonable, having regard to the wages which it considered to be generally prevailing in the employment affected. The amendment was introduced "with a view to providing a greater measure of protection not only for employees but also for employers who pay fair wages." This method may now be used by the Board, as it deems fit, in preference to the criterion long set out in the Act—that the Board should base the minimum wage on the amount which it deems adequate to furnish the necessary cost of living to the employees concerned.

To the Board's already extensive powers to determine working conditions was added power to fix the maximum number of hours that may be worked without a meal period, to require employers to provide, repair and launder uniforms at their own expense, to order that rest periods must be counted as time worked, and to require employers to furnish pay statements on each regular pay-day and on termination of employment.

The Board has laid down all these requirements in its orders, the requirement concerning pay statements having been set out in a new order in 1957.

In Saskatchewan, the practice of setting weekly minimum rates for full-time employees and hourly rates for part-time workers has been continued, part-time workers being defined as those who work less than 36 hours in a week. Proportionally higher than the rates established for full-time workers (currently 85 cents an hour as against $32 a week), the part-time rate is designed to discourage the practice of providing only part-time work.

As already noted, rates $2 less than the full minimum rates are set for workers under 18. The present rate for young workers is $30 a week.

Provision for overtime is contained in the Hours of Work Act and orders, and the Minimum Wage Board is not concerned with it.

As a result of a change made in 1960 in the orders covering hotels, restaurants, educational institutions, hospitals and nursing homes, any employer who requires or permits a woman worker to finish work between 12.30 and 7 a.m. must provide free transportation for the worker to her home. There are similar provisions governing night work of women in Alberta and Manitoba (covering the hours between midnight and 6 a.m.). In Ontario, where permission is granted to proprietors of restaurants or other employers to employ women 18 years of age and over during the night, permits are subject to certain conditions regarding the conveyance of the worker to her home.

The following table presents a comparison of the minimum rates in effect in 1950 and 1960 for women workers in factories, shops and offices in the various provinces.

A COMPARISON OF MINIMUM RATES FOR WOMEN IN FACTORIES, SHOPS AND OFFICES IN 1950 AND 1960

	1950	1960
Newfoundland	nil	35¢ per hour
Nova Scotia	$15, Zone I (per week) $14, Zone II $13, Zone III	$21.60, Zone I (per week) $19.20, Zone II $14.40, Zone III*
New Brunswick	35¢ per hour	60¢ per hour
Quebec	35¢, Zone I (per hour) 32¢, Zone II 28¢, Zone III 25¢, Zone IV	70¢, Zone I (per hour) 64¢, Zone II*
Ontario	$16.80, Zone I (per week) $15.80, Zone II $13.80, Zone III	$30, Zone I (per week) $28, Zone II $26, Zone III
Manitoba	$19.50, urban (per week) $18.50, rural	66¢, urban (per hour) 61¢, rural
Saskatchewan	$21, cities and 9 larger towns (per week) $18.50, smaller towns	$32 (per week)
Alberta	$20 (per week)	$28, places over 5,000 (per week) $24, rest of province
British Columbia	40¢ per hour, factories $18 per week, shops and offices	60¢, factories (per hour) 65¢, shops 75¢, offices

*For difference in definition of zones in Nova Scotia and Quebec between 1950 and 1960 see pages 3, 4, 8, 9.

Hours of Work

In 1950 five provinces, Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, had hours of work legislation of general application which either set absolute limits on hours or required the payment of an overtime rate after a specified number of hours of work. Hours were limited in Alberta and Ontario to 8 in a day and 48 in a week and in British Columbia to 8 and 44. In the other two provinces, the second method of regulating hours was followed, and an overtime rate was payable after 8 and 48 hours (44 for women) in Manitoba, and after 8 and 44 hours in Saskatchewan (by administrative regulation, 8 and 48 in the smaller centres). All of the Acts, of course, provided for some exceptions or variations.

In the ensuing ten-year period there were few important changes in hours legislation. Hours were reduced to some extent in Alberta and Newfoundland, coverage was

extended in Saskatchewan and Manitoba, and authority to limit daily hours was granted in Saskatchewan.

In Alberta, an administrative order in 1952 reduced the weekly limit on hours from 48 to 44 in the cities of Edmonton, Calgary, Lethbridge and Medicine Hat. In 1953, in Newfoundland, an amendment to the St. John's Shops Act set a 44-hour weekly limit on hours for shop employees in that city and a six-mile radius, with provision for longer hours by agreement upon payment of an overtime rate. A 1959 amendment to the same Act, effective from January 1, 1960, limits hours of shop employees to 40 in a week unless time and one half is paid. The same requirement was laid down in 1960 for shop workers in the Exploits Valley district.

By a 1951 amendment, which went into force on March 1, 1952, the coverage of the Saskatchewan Hours of Work Act was extended to all places covered by the Minimum Wage Act, which in effect meant all workplaces in centres with a population of over 300. As a result, employees in workplaces other than factories, offices and shops in the smaller places and certain categories of workers such as janitors and long-distance truckers, who had been previously excluded, were now covered and entitled to overtime rates for work beyond the prescribed limits. The following year (1953), when the Minimum Wage Act was made applicable to all parts of the province, the Hours of Work Act was correspondingly extended. Later in the same year the Act was declared not to apply to the northern part of the province, the area north of Township 62, except for the village of Creighton and the hamlet of Lac la Ronge. Since that time Uranium City, although in the exempted northern area, has been brought within the scope of the Act.

In Manitoba, in 1953, the Hours and Conditions of Work Act (now Part III of the Employment Standards Act), which applied in the chief industrial areas of the province, was extended to include Snow Lake and Lynn Lake, two northern Local Government Districts.

In 1958, the Saskatchewan Act, which previously had not placed any absolute limitation on working hours, was amended to authorize the Lieutenant-Governor in Council to issue regulations applicable to any class of employment limiting working time in any one day to 12 hours. In 1959, a regulation was made prohibiting employers in highway construction and maintenance work from requiring employees to work more than 12 hours in a day except by special permit.

In other legislation, in addition to the general hours of work Acts, there are provisions limiting hours. In New Brunswick and Quebec, factory Acts place some restrictions on working hours of women and boys under 18. The Nova Scotia Factories Act limits hours of boys and girls under 16 to 8 in a day and 48 in a week. Mining Acts in New Brunswick and Nova Scotia, which set a maximum eight-hour day for underground work in mines, provide the only statutory regulation of hours of work of miners in those provinces; hours of work Acts apply to mining in other provinces. In New Brunswick, hours of workers on construction work done under contract with the provincial Government must be limited to 8 and 44.

There is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

Industrial standards legislation in Alberta, New Brunswick, Nova Scotia, Ontario and Saskatchewan, and the Collective Agreement Act in Quebec, all introduced in the thirties, continue to provide an important method of regulating hours of work, as well as of establishing minimum rates, in some trades and industries. In Manitoba, the Fair Wage Schedule issued annually under the Fair Wage Act sets the regular work week and establishes minimum rates for private as well as public construction work.

The use of this method of regulation has not increased significantly in the last ten years, the number of schedules and decrees now in effect being only slightly greater than in 1950. Schedules or decrees regulate working conditions in the construction trades in defined areas in each of the six provinces, a few new trades and areas now being covered; province-wide standards are established for the main branches of the garment industry in both Ontario and Quebec; and decrees or schedules cover the barbering and hairdressing trades in many areas. The trend has been to reduce regular working hours, a 40-hour week now being common for the construction trades in the larger centres. A 37½-hour week has been established for the ladies' cloak and suit industry in province-wide orders in both Ontario and Quebec.

Vacations With Pay

In 1950 legislation requiring employers to grant their employees an annual paid vacation was in force in six provinces. Between 1950 and 1960 there was a further extension of this new field of legislation. Vacations with pay were provided for by law in two other provinces, a federal Annual Vacations Act was enacted, and a number of amendments, including a lengthening of the vacation period in three provinces and various changes to facilitate administration, were made in most of the provinces.

New Brunswick passed its Vacation Pay Act in 1954, bringing it into force on June 30, 1955. Its application was limited to two industries—mining and construction—where the enforcement of a legal standard appeared to be necessary. In introducing the Bill, the Minister of Labour indicated that surveys had shown that, where there was year-round employment, vacations with pay were quite generally granted without legislation. In 1958 the application of the Act was extended to the canning and packing industries.

The Nova Scotia Vacation Pay Act, which went into force on January 1, 1959, was of general application, exempting only employees in lumbering and commercial fishing, farm workers and domestic servants.

The federal Annual Vacations Act went into effect on October 1, 1958, providing for an annual vacation with pay for workers in undertakings within federal jurisdiction. These include operations that are interprovincial or international in nature, such as railway, ship, ferry, bus, trucking, telegraph, telephone, pipeline, tunnel, bridge and canal operations, operations relating to inland and maritime navigation, longshoring and stevedoring. Also included are aerodromes and air transport, radio and television broadcasting stations, banks and banking, certain mining operations, and federal Crown corporations and works (such as grain elevators, and flour, feed and seed cleaning mills) that have been declared to be for the general advantage of Canada.

The New Brunswick and Nova Scotia Acts followed the lead of a number of the other provinces (including Ontario and Quebec) by providing for a minimum vacation period of one week after a year's service. The annual vacation provided for in the federal Act is one week in respect of a completed year of employment for an employee who has worked for less than two years with the same employer, and two weeks for an employee who has worked for the same employer for two years or more.

In both New Brunswick and Nova Scotia, provision was made for a system of vacation stamps to enable workers in the construction industry (and in the other industries covered in New Brunswick) to receive the benefits of a vacation with pay.

As regards the length of the annual vacation, the Manitoba Vacations with Pay Act, which since 1947 had provided for a vacation of one week after a year's service, was amended in 1951 to provide for an additional week after three years with the same employer.

In 1956 the British Columbia Legislature replaced the Annual Holidays Act with a new statute of the same name, effective from July 1, 1957, providing for a two-week vacation with pay instead of one week. British Columbia thus became the second province to provide for a two-week vacation after one year of service, Saskatchewan having set this standard in its first vacations with pay legislation in 1944.

In 1958 the Saskatchewan Annual Holidays Act was amended to provide for an annual vacation of three weeks after five years service, with vacation pay at the rate of 3/52 of the total wages earned during the previous year of employment. This provision applied only where a worker had been in continuous employment with the same employer, and to enable persons whose employment with the same employer had not been continuous to enjoy the same benefits, the Act was further amended in 1959. The amending Act stated that an employee was entitled to a three weeks vacation with pay after five "accumulated" years of employment, provided that no break in his service had exceeded six months or 182 days.

By an amendment in 1959, Manitoba became the third province to provide for a two-week vacation after one year's service with an employer. As already noted, the former provision was for one week after one year and two weeks after three years of service.

In 1950 a change in the definition of "working year" in the British Columbia Act reduced the period of service held to constitute a year of employment. Set at 280 days in the original (1946) Act, the qualifying period was reduced to 250 days the following year. The 1950 amendment defined "working year" to mean one calendar year's continuous service, comprising not less than 225 days of actual work.

In Alberta, the 275 days prescribed in the original (1946) vacation orders were likewise reduced. From 1949 on, annual

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vacations were calculated on the basis of one-half day for every 23 days worked after a year of employment, and one day for every 23 days worked after two or more years' service. This provision was replaced in 1958, making 225 days of actual work the requirement for a year's employment.

For purposes of comparison, a year's service in New Brunswick is considered to consist of 225 working days or shifts. In Manitoba, an employee is held to have completed a year's service if he has worked 95 per cent or more of the regular working hours during the year. In Nova Scotia, the employee must have worked 90 per cent or more of the working hours during the year.

Several of the Acts were amended to provide that continuity of service was not to be affected by changes in the management of the undertaking. The Alberta Labour Act was amended in 1950 to provide that, where a business was sold, leased or transferred, the service of the employees concerned was to be deemed to be continuous for the purposes of computing their vacations with pay. British Columbia and Manitoba amended their Acts to the same purpose in 1956; Saskatchewan enacted a similar provision in 1957; and a comparable clause was inserted in the 1958 federal Act.

Although worded differently, a provision added to the Quebec Minimum Wage Act in 1947 has the same intent. It states that vacations with pay granted by a minimum wage order according to the duration of an employee's service are to be calculated according to the period during which he has been employed at the same enterprise "without regard to changes of ownership of such enterprise."

In 1959 an amendment was made to the Manitoba Act to prevent an employee's absence from work because of an accidental injury for which he received workmen's compensation from breaking his continuity of service. To ensure that an employee may not lose any entitlement to a vacation accumulated before such an injury, the Legislature provided that the Manitoba Labour Board may find that he has completed a year's service and is eligible for an annual vacation if he has worked for his employer during 12 months, which were not continuous but were interrupted only by the period during which he was in receipt of compensation.

In 1950 the British Columbia Act was amended to provide that vacation pay should be 2 per cent of total annual earnings rather than regular pay, as before (now, with the longer vacation period, 4 per cent of earnings). In most of the provinces vacation pay is a percentage of annual earnings (2 per cent for a one week's vacation and 4 per cent for a two weeks' vacation), but in Alberta and Manitoba it is the employee's regular pay for a week's work or for two weeks' work, as the case may be. In Quebec, an employee is entitled to his regular weekly pay for his annual vacation if he is engaged and paid by the week or any longer period; if he is paid on any other basis, e.g., by the hour, his vacation pay is 2 per cent of his annual earnings.

Several significant changes were made in connection with the vacation stamp system.

In Manitoba, where June 30 was the normal cut-off date for the redemption of stamps issued in the previous year, provision was made in 1956 for a person who was unemployed during the winter months to cash his vacation stamps at any time after November 30 in any year if he could establish that he had exhausted his unemployment insurance benefits and was available for work.

For the same reasons Alberta in 1958 changed its redemption date from June 1 to January 15, enabling workers to obtain the cash equivalent of their vacation credits at any time within the 12 months beginning on January 15 in each year.

In Nova Scotia, an employee may cash his stamps at any time after the anniversary date of his employment.

In a revision of the Quebec vacation orders in 1957, the use of the stamp system was authorized for manual workers in the building construction industry throughout the province. Previously, its application had been limited to the Montreal and Hull areas.

Because of the administrative problems involved in the operation of a system of stamp books, the Manitoba Legislature provided in 1959 for the payment of vacation pay to construction workers by cheque, effective from July 1, 1960.

Under the new scheme, which like the stamp system will apply only to construction workers in the Greater Winnipeg area, the employer will periodically pay to the Minister of Labour amounts equal to the total vacation pay credits due to each of his employees at the time the payment is made, at the same time furnishing the Minister with the name, address and unemployment insurance number of each employee. The employer is also required to notify the employee of the amount paid. The Minister will deposit the amounts received with the Provincial Treasurer. As

soon as practicable after June 30 in each year, a cheque will be sent to each employee for the amount of vacation pay to his credit in the records of the Department of Labour, less a charge for administration costs.

In 1957 the reference in the Alberta legislation to vacation with pay stamps was changed to "vacation with pay stamps or other credits," thus enabling the Board to provide, if it so decided, that credits might be placed in vacation books by a method other than stamps, e.g., by a meter machine. To date the Alberta Board has not adopted the new system. In Quebec, employers are now permitted to use meter machines for vacation credits instead of stamps. This method, authorized in 1958, is used by a number of larger firms.

The British Columbia Act as replaced in 1956 made provision for a system of vacation credits but a stamp system has not so far been introduced in that province. Saskatchewan is the only other province in which the stamp system is not used.

All the Acts set a fairly lengthy period within which an earned vacation must be given, ranging from four months in New Brunswick to twelve months in Alberta and Quebec. In the remaining Acts the period specified is ten months. The employer, as a general rule, is free to decide at what time within the specified period the vacation is to be taken, and, in those jurisdictions where a two or three weeks vacation is provided for, whether it is to be taken in one or more periods. The Alberta orders state, however, that the vacation (which must be at least one week after one year and two weeks after two or more years of service) is to be in an unbroken period, and the Saskatchewan Act, as amended in 1960, makes it clear that the personal wishes of the employee are to be taken into account.

The new Saskatchewan provision is that, if an employee, not later than the day on which he becomes entitled to an annual vacation (that is, after a completed year of employment), gives his employer written notice indicating how he prefers to take his vacation, the employer must permit him to take it in the manner indicated. (The Act stipulates that the vacation may be taken in periods of not less than one week each.) This provision does not apply, however, where the Minister approves a general plant shutdown for the purpose of giving all employees a vacation at the same time.

The employee must receive advance notice of the date on which his vacation is to begin in Manitoba (no period specified); Alberta (where the date is not mutually agreed upon, at least one week's notice); New Brunswick (one week); Nova Scotia (one week); Quebec (15 days); and in Saskatchewan and under the federal Act (not less than two weeks). In the Saskatchewan and federal jurisdictions, as in Alberta, notice is required unless the starting time of the vacation has been agreed upon by employer and employee, or, alternatively, in Saskatchewan, by employer and trade union. In Saskatchewan, written notice is required.

Six of the Acts stipulate that any public holiday (as defined) occurring within the vacation period is not to be counted as part of the annual vacation and that the employee is entitled to an additional day for any such holiday. The federal and Saskatchewan laws stipulate further that the employee is to be paid, over and above his vacation pay, the wages to which he is entitled for the holiday.

In 1958 an amendment to the Saskatchewan Act made provision for a system which, if established by regulation, would enable employees to postpone a week of their annual vacation each year for a maximum of four years. Under such an arrangement, which would permit the accumulation of a vacation of up to seven weeks, some form of guarantee would be required for the payment of vacation pay, such as the deposit of vacation pay in a trust account or the furnishing of a bond. The system would in no case be mandatory, since it would not apply with respect to any employee "unless he and his employer have, with the approval of the Minister, agreed that it shall apply." There is no comparable provision in any of the other Acts.

All the Acts except that of Manitoba provide for the payment of vacation pay on termination of employment but a number of them specify that a worker must have completed a minimum period of service in order to qualify. A provision in the Saskatchewan Act requiring a worker to have been employed for at least 30 days in order to become eligible for vacation pay on termination of employment was removed in 1958.

A minimum period of 30 days is laid down in the federal and Alberta legislation; in Nova Scotia and Ontario, the period specified is three months. In Ontario, however, the three months requirement applies only where a worker voluntarily leaves his job, and if the employment is terminated by the employer the employee must be given vacation credit for any time he has been employed. The British Columbia Act

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excludes any person who has not completed five days of actual work in a calendar year.

As a safeguard to an employee's entitlement to an annual vacation or vacation pay, the Saskatchewan Act was amended in 1955 to provide that where notice of termination of employment has been given (a week's written notice is required under the Minimum Wage Act in case of discharge or layoff of an employee with three months service or more), the employer may not permit an employee to take any part of his vacation during the period of notice. Further, payment of vacation pay is not to constitute payment for the period of notice.

In line with the changes in the Saskatchewan Act providing for annual vacations on the basis of accumulated as well as continuous service, an employer may, at the request of an employee, withhold payment of any vacation pay owing to him on termination of employment if the employee's services have been terminated because of shortage of work and it seems likely that he will be re-hired within 182 days. If, however, the employee asks for his vacation pay during the 182-day period, the employer must comply with his request within seven days.

In Quebec, provision for a paid vacation allowance for forestry workers was made in 1958. Any worker who works at least 75 days in a four-month period for the same employer is now entitled on termination of employment to a vacation allowance of 2 per cent of his earnings for the period of his employment.

All the Acts (except that of New Brunswick) exclude certain groups (e.g., farm workers, domestic servants,* members of family undertakings, professional workers), and some (federal, Nova Scotia and Saskatchewan) permit further exemptions by Order in Council.

In some instances the vacation provisions of a collective agreement may supersede the provisions of the Act, if approved by the Minister of Labour. In 1951 the British Columbia Act was declared not to apply to an employer and his employees covered by a collective agreement containing vacation provisions approved by the Minister of Labour, provided that the employees' representatives were authorized to bargain in accordance with the labour relations Act.

Similarly, recognizing that the parties to a collective agreement might wish to continue alternative vacation arrangements, Parliament wrote a provision into the federal Act giving the Minister authority to approve vacation provisions in agreements signed after the coming into force of the Act.

The New Brunswick and Nova Scotia Acts state that, where annual vacation provisions established by any other Act, agreement, contract of service or custom are "as favourable to an employee" as the provisions of the Act, the provisions so established are to prevail.

Several Acts stipulate that vacation pay is to be deemed wages. A provision that an annual vacation or its equivalent in vacation pay was to be deemed wages was inserted in the British Columbia Act in 1956. A similar provision is found in the federal and Saskatchewan Acts, the federal legislation providing that "for all purposes" vacation pay is to be deemed wages. Presumably, under such a provision vacation pay could be included with other wages as a preferred claim in case of bankruptcy.

Penalties for violation are set out in all the Acts, and all except the Act of Manitoba empower the magistrate levying a fine to order payment by the employer of the vacation wages due.

The Quebec provision is unique. A Quebec employer who does not grant an employee his vacation within the 12-month period specified is liable to a fine which is double the vacation pay due to the employee. The fine must be paid to the Minimum Wage Commission, which is authorized to pay half to the employee.

Time-limits for prosecutions are laid down in several Acts. The period within which action must be taken under the Alberta and federal Acts is one year. The same time-limit was fixed in the Saskatchewan Act in 1956 but a 1958 amendment extended the period to three years. In Quebec, a civil action arising out of the Minimum Wage Act or an order under it must be instituted within six months from the date of commission of an alleged offence.

Recent amendments to the Manitoba and Alberta Acts give the employee his own remedy, apart from the Act, for the recovery of vacation moneys due him. A 1956 amendment in Manitoba stated that vacation wages payable under the Act were to be held to be a debt due from the employer to the employee and as such were recoverable by court action.

The Alberta amendment in 1960 permits an employee to take legal action to recover vacation pay while he is still employed or within 12 months after termination of employment, if no prosecution has been

*Domestic servants are within the scope of the Manitoba and Saskatchewan legislation.

initiated under Section 43 of the Act (usually on the information of the Department of Labour). Action by the employee is limited to amounts of vacation pay accruing over a period of two years.

In Alberta, the provisions in industrial standards schedules dealing with vacations with pay supplement the vacation legislation already described.

In 1950 the Alberta Labour Act was amended to include vacations with pay among the subjects that might be negotiated at a conference between employers and employees in any industry and dealt with in an industrial standards schedule. It provided, however, that any vacation-with-pay plan formulated by such a conference should not be less favourable to employees than the vacation provisions set out in orders of the Board of Industrial Relations.

The vacation provisions in a number of schedules, while limited in application to a particular industry and area of the province, set a higher standard than that set by the Board, providing for a vacation of two weeks after a year's service. As already noted, one week's vacation after a year's service and two weeks after two years is the general requirement laid down by the Board.

In Quebec, workers governed by a decree under the Collective Agreement Act are subject to the vacation with pay provisions set in the decree. The Department of Labour or Minimum Wage Commission has no jurisdiction with respect to the administration and enforcement of a decree, which is under the supervision of the parity committee concerned. More than 100 decrees are presently in force covering more than 250,000 employees. The Minimum Wage Act (under the authority of which vacation orders are made) does not apply to workers whose working conditions are regulated by decree.

Public Holidays

In Canada, payment for public holidays is regulated to a greater extent by collective agreement than by statute. Only two provinces, Manitoba and Saskatchewan, have provisions of general application dealing with public holidays. Under the Saskatchewan provisions, which go back to 1947, employees are entitled to a specified number of paid holidays as a matter of right, and, if required to work, must be paid at a premium rate for work done on the holiday, in addition to their regular pay. The Manitoba provisions, which were enacted in 1951, prohibit work on specified public holidays unless an overtime rate is paid. Provisions prohibiting work on specified public holidays except with a permit from the Advisory Committee, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate (frequently double time) for work done on specified holidays, are now regular features of the decrees under the Quebec Collective Agreement Act and of industrial standards schedules in some provinces. These provisions, while regulating a considerable portion of industry, particularly in Quebec, cover only certain trades and areas in the province concerned.

Provisions in minimum wage orders in Alberta, Manitoba and Nova Scotia deal with the question of pay for public holidays but only to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday. The Factories Act of British Columbia makes it mandatory for factories, with the exception of certain continuous industries, to close on specified holidays unless granted special permission for employment, but does not deal with the question of pay for the holidays. There is also legislation in British Columbia and Newfoundland requiring shops to be closed on listed holidays.

In Saskatchewan, the Minimum Wage Board, acting under authority conferred on it by the Legislature in 1947 to require payment for public holidays, requires full-time employees who do not work on any of eight listed public holidays to be paid their regular pay. If they are required to work, they are to be paid for the holiday and, in addition, time and one half their regular rate for all work done (in effect, two and one half times the regular rate), except in hotels, restaurants, hospitals, etc. In such workplaces, employees who work on a holiday are required to receive, in addition to their regular daily wage, wages at their regular rate or equivalent time off at regular rates within four weeks. The eight listed holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. When Christmas or New Year's Day falls on Sunday, the requirements set out above apply to the following Monday. They also apply when the Monday following Remembrance Day is declared a holiday.

An amendment made to the Saskatchewan Minimum Wage Act in 1960 was designed to make the public holiday provisions more flexible by permitting an employer and trade

union to make an agreement substituting another working day for any of the eight holidays named in the Act. Such an agreement may be concluded only by a trade union which represents a majority of the employees in an appropriate bargaining unit.

The enactment of the Manitoba provisions in 1951 was, apart from the increasing regulation of public holidays under decrees and industrial standards schedules, the major development in this field during the decade. These provisions, first placed in the Hours and Conditions of Work Act, are now part of the Employment Standards Act.

In Manitoba, in all employment except farming, workers are entitled to time and one half their regular rate if required to work on seven public holidays—New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. For workers employed in a continuously operating plant, a seasonal industry, a place of amusement, a gasoline service station, a hospital, a hotel, a restaurant, or in domestic service, compensatory time off may be substituted, in accordance with custom or agreement. Domestic servants may be granted two half-days off in lieu of a holiday.

An additional holiday was provided for in 1951 with the passing of the Remembrance Day Act, under which November 11 is set apart as a day of remembrance, with a general prohibition upon work, except in emergencies. Except in farming and certain essential services, work may not be performed except by permit from the Minister of Labour. Overtime provisions are not applicable on Remembrance Day. Any employee other than a watchman, furnace tender or janitor who is required to work must be granted compensatory time off without loss of pay within 30 days.

The list of essential services exempted is quite lengthy and includes hospitals, restaurants, drug stores, dairies, bakeries, transportation, and the work of janitors, watchmen, policemen, firemen and domestic servants. In 1953, newspapers, which had been only partially exempted previously, were entirely excluded.

Weekly Rest

Prior to 1950, weekly rest legislation had been enacted in seven provinces—Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Quebec and Saskatchewan. The provisions, however, varied widely in scope. In the period under review, weekly rest legislation was introduced in New Brunswick, the coverage of the Manitoba and Saskatchewan Acts was extended, and the weekly rest provisions in the Alberta Labour Act were clarified.

The New Brunswick Weekly Rest Period Act, passed in 1954, requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken, if possible, on Sunday. Where a weekly rest is impracticable, the Minister may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only groups excluded from the Act are farm workers, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Other groups may be exempted by the Lieutenant-Governor in Council.

In 1950, the Saskatchewan One Day's Rest in Seven Act, which had applied only in the cities and by administrative order had been extended to 21 listed towns, was re-enacted to make it applicable to the employees of any employer covered by an order of the Minimum Wage Board. Since minimum wage orders at that time covered all centres with a population of 300 or more, the One Day's Rest in Seven Act was made applicable in these areas. In 1957, the weekly rest requirement was extended to all parts of the province by Order in Council, and in 1960 the Act itself was amended to provide for province-wide coverage. Provision was also made for the Lieutenant-Governor in Council to exclude any specified class of employees, subject to such conditions as may be prescribed.

In 1951, the Manitoba One Day's Rest in Seven Act was repealed and its provisions incorporated in a new statute, the Hours and Conditions of Work Act, with some extension of coverage, both geographically and industrially. Instead of being limited to the cities, the weekly rest provisions now applied to the chief industrial areas in the province. In 1957, the Hours and Conditions of Work Act and its weekly rest provisions were in turn incorporated in the Employment Standards Act with no change in coverage.

The Alberta legislation was re-worded in 1957 to require that an employee be given a day off "immediately following each period of not more than six consecutive days of work" unless the Board of Industrial Relations orders that hours of rest be allowed in two periods or that a longer period than 24 hours be granted. Under the previous wording requiring an employer to grant an employee a day's rest "in each

period of seven consecutive days," it was possible for an employee to work 12 days without a day off.

The Alberta Labour Act permits the Board to make special provision for days of rest in continuous industries and authorizes the granting in such operations of a consecutive rest period every four weeks or in relation to some other work period fixed by the Board. Under this authority the Board has made special provision for accumulated days of rest in the highway construction, geophysical exploration, oil well drilling, oil well service and pipeline construction industries, and for cooks, night watchmen, etc., in lumber camps.

In British Columbia, weekly rest requirements are laid down in minimum wage orders by the Board of Industrial Relations, acting under its authority to regulate "conditions of labour and employment." A change in the British Columbia orders during the decade is the now almost universal requirement that employees must be given a 32-hour weekly rest, unless a different arrangement is approved by the Board. This provision was either inserted in a number of orders for the first time or substituted for a 24-hour rest requirement.

School Attendance and Employment of Young Persons

In the period under review, changes in school attendance laws and laws governing employment of young persons had the effect of fixing a higher age for compulsory school attendance in some provinces, and of strengthening the already considerable body of legislation for the protection of young workers.

School Attendance

Each province has a compulsory school attendance law requiring children to attend school up to 14, 15 or 16 years, as the case may be, unless they have reached a certain level of education, and prohibiting the employment of school-age children during school hours. In all cases, exemptions from school attendance are permitted in case of illness, distance from school or lack of accommodation and, except in British Columbia, under specified conditions for home duties and for employment.

Between 1950 and 1960 the school-leaving age was raised in several jurisdictions. In Manitoba, a 1950 amendment to the School Attendance Act authorized a school board having an attendance officer to pass a by-law requiring attendance to the age of 16, instead of 15, as authorized under previous legislation. Where a higher age is not fixed, the school-leaving age in Manitoba is 14 years, but children betweeen 14 and 16 must attend school if not regularly employed in industry, household duties or farm work. The minimum school-leaving age was raised from 14 to 15 years in Newfoundland in 1951, and in 1959 Prince Edward Island made it compulsory to send a child to school to the age of 16 rather than 15, as previously.

Employment of Young Persons

In 1951, following the example of British Columbia and Prince Edward Island, Nova Scotia passed a general child labour law prohibiting employment of children below a specified age.

The Nova Scotia Employment of Children Act prohibits the employment of children under 14 in certain undesirable employments—manufacturing, ship-building, electrical works, construction, the forestry industry, garages and service stations, hotels and restaurants and the operation of elevators, theatres, dance halls, shooting-galleries, bowling-alleys, billiard and pool rooms. The Act also places restrictions on the employment of children in other occupations, providing that no child under 14 may be employed to do any work that is likely to be harmful to his health or normal development or such as to prejudice his attendance at school or capacity to benefit from school instruction.

In non-prohibited occupations, the hours of children under 14 years are limited to eight in a day when school is not in session and to three on a school day, unless an employment certificate has been granted. Work and school may not occupy more than eight hours of any day, and work between 10 p.m. and 6 a.m. is prohibited. (An employment certificate may be issued under the Education Act to a child over 13 years who satisfies the school board that he needs to go to work or who, in the board's opinion, will not profit from further schooling.)

In 1950, the Alberta Labour Act, which already prohibited the employment of a child under 15 in any factory, shop or office building (shop includes a hotel or restaurant), was amended to forbid work in any other employment by a child under 15 without the approval of the administrative

board. Since 1957 the written consent of the parent or guardian has also been required. In 1954, an exemption was authorized for a child under 15 who is excused from school attendance for the purpose of securing vocational training through employment.

These restrictions on child employment were relaxed somewhat in 1957 by an amendment to the Act giving the Lieutenant-Governor in Council power to make regulations permitting the employment of children under 15 in specific occupations, subject to the protection afforded by the Child Welfare Act.

Under this authority, regulations were issued permitting the employment of a child over 12 in certain safe occupations under specific safeguards, namely, that the work should not be injurious to the child, that the parent or guardian should give written consent, that working hours should not exceed two on a school day or eight on any other day, and that no work should be performed after 8 p.m. If these conditions are met, a child may be employed in any of the following occupations: clerk in a retail store, delivery boy or girl for a retail store, vendor of newspapers and small wares, water boy on a construction project, clerk or messenger in an office, express or despatch messenger, shoe-shiner, gardener and landscaper.

In 1955, the coverage of the British Columbia Control of Employment of Children Act, enacted in 1944, was extended to the laundry, cleaning and dyeing industry. This Act, which prohibits the employment of children under 15 in specified industries or occupations except under permit from the Minister of Labour, applies to the main types of industrial and commercial employment, including shoe-shine stands, public places of amusement and service stations.

In 1957, when Manitoba consolidated its main labour laws into one statute, the Employment Standards Act, some changes were made in the provisions regulating the employment of young persons.

As before, the employment of a child under 15 was forbidden, except with a written permit from the Minister. The Act also stated that no child might be employed in such a manner, or upon such work or service, that his safety, health or moral well-being might be hurtfully affected.

With respect to factories, the minimum age for employment of boys was raised from 14 to 15, the age formerly set for girls; there is no provision for exemption by permit. Birth certificates are required for the employment of all adolescents under 18. Formerly, they had been required only up to the age of 16. In addition, the Lieutenant-Governor in Council was given authority to prohibit the employment of boys and girls under 18 (formerly, girls under 18, boys under 16) in a factory in which the work is considered dangerous or unhealthy.

Two provinces set higher age limits for underground work in mines. In 1951 in Newfoundland the minimum age for employment underground was raised from 13 to 18 years. In 1951 Nova Scotia raised the minimum age for underground work in metal mines from 16 to 18 years; in 1954, in coal mines from 17 to 18 years. In New Brunswick, in 1955, in the first regulations made for metal mines, a minimum age of 18 years was set for employment underground.

Family Allowances

The federal Family Allowances Act, 1944, which provides for the payment of a monthly allowance to every Canadian child up to his 16th birthday, is an effective means of limiting employment of children and of ensuring school attendance. Payment of an allowance ceases when a child fails to attend school, and a child who is legally absent from school cannot work for wages and receive an allowance.

In 1957, the scale of payments under the Act was raised to $6 a month for all children under 10 years of age, and $8 for those between 10 and 16 years. Previously, the allowances were $5, $6, $7 or $8, depending on the age of the child.

Protection of Wages

All provinces have statutory provisions designed to ensure that workers receive the wages due them. This is in addition to a considerable body of legislation (general wages Acts in three provinces, provisions of the Alberta Labour Act, provisions of Minimum Wage Acts and orders, the British Columbia Semi-monthly Payment of Wages Act) regulating the manner and frequency of payment of wages, the deductions that may be made from earnings, the furnishing of pay statements and other related matters.

With regard to the protection of wages, one province, Alberta, has wage security legislation to protect workmen against defaulting employers in two of its basic industries—coal mining and lumbering. Under federal fair wage legislation and similar legislation in five provinces applying to works of construction performed under government contract, provision is made for the payment of wages to employees in case of default by the contractor from moneys in the hands of the Crown for securing the performance of the contract.

Five provinces, through Masters and Servants Acts or their more modern equivalent, Wages Recovery Acts, provide a summary procedure for the recovery of unpaid wages. In some jurisdictions there is special legislation giving priority to wage claims in bankruptcy (a purely federal matter), the voluntary winding-up of a company and similar eventualities. There is also legislation in most provinces protecting a portion of a worker's wages from attachment or assignment. A Mechanics' Lien Act in each province (provisions of the Civil Code in Quebec) gives "mechanics" and labourers a lien for work done in the erection of any building or the performance of any other work of construction. Several provinces also have Woodmen's Lien Acts.

In the period between 1950 and 1960, the Alberta wages security legislation was amended; the Saskatchewan, Alberta and Manitoba wages recovery Acts were revised; and the scope of the British Columbia Semi-monthly Payment of Wages Act was extended to give additional protection to workers.

The Alberta Industrial Wages Security Act requires employers in the coal mining and lumbering industries to furnish wage security in the form of cash or bonds to the Minister of Labour before beginning operations each year. The amount of security normally required is the largest monthly payroll in the previous year of operation. An employer who has defaulted in the payment of wages may be required to furnish additional security. A defaulting employer who has been ordered by the Minister to cease operations, as provided for in Section 12 of the Act, must deposit twice the amount of his largest monthly payroll during the preceding year.

In 1951 the requirements of the Act were relaxed to some extent when it was provided that, at the Minister's discretion, the payment of security might be made in instalments. This amendment was designed to aid small operators who had a good record of compliance with the Act but who sometimes found it difficult to furnish the entire amount of the security before the beginning of their operations.

The Minister also has discretionary power to exempt an employer from liability to furnish security if the Provincial Auditor certifies that he is satisfied with the employer's financial position and ability to pay the wages of his employees. A 1960 amendment to the Act gave the Minister authority to waive the security provisions without a certificate if the employer has not defaulted on any wage payments for a period of three years immediately preceding the application for exemption.

Employers must make out monthly returns showing whether or not workmen have been paid in full. Where wages are owing to workmen, the security in the hands of the Minister is available for payment.

As previously indicated, five provinces—Alberta, British Columbia, Manitoba, Ontario and Saskatchewan—have Acts which provide for the collection of wages through the making of a complaint before a justice of the peace or a police magistrate. This procedure, first set out in the Masters and Servants Acts of the nineteenth century, involves only nominal costs and is a simpler and more direct remedy than an ordinary civil action.

The magistrate is authorized to conduct a hearing, summoning the employer to appear before him to answer the claim. In some provinces the claim may be investigated whether the employer appears or not. If the magistrate is satisfied that a proper claim exists, he may order payment by the employer of wage arrears and costs. In case of non-payment, the magistrate may issue a distress warrant for levying the wages and costs by seizure and sale of the employer's property.

Some of these Acts have not been changed for many years, and for that reason do not afford a practical means of redress to workers for unpaid wages under modern conditions. The maximum amount of wages that may be recovered in British Columbia under this procedure is $50 and costs, and in Ontario $200 and costs. However, during the fifties several provinces brought their Acts more into conformity with present-day conditions. In 1951 Saskatchewan replaced the Masters and Servants Act by the Wages Recovery Act, which in turn was replaced in 1957. Alberta passed a new Masters and Servants Act in 1954, and in 1960 Manitoba amended its Wages Recovery Act, raising

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the ceiling to enable claims up to $500 to be handled by this summary procedure. The previous limit was $200.

The Saskatchewan Wages Recovery Act of 1951 provided substantially the same procedure for the recovery of wages as the former Masters and Servants Act but the limit on the amount of wages that could be collected was raised to $200. It had previously been $100, with provision for the payment of an additional four weeks' wages in case of improper dismissal. In 1954 the ceiling was raised to $400, and in 1957 it was increased to $500 (plus costs). This limitation does not apply, however, to an employer who is subject to the Minimum Wage Act, which in effect means that the $500 ceiling applies only in agriculture and one or two other types of employment.

In 1955 the Saskatchewan Act was amended to make it a more effective instrument for the recovery of wages by incorporating in it the procedure set out in other labour standards laws of the province for the collection of wages by Department of Labour inspectors. These provisions permit the employer to make voluntary restitution of wages owing to an employee. If in the course of his regular duties an inspector finds that an employer has failed to pay wages due, he may determine the amount owing and, if the employer and employee agree as to the amount, the employer is required to pay the wages to the Deputy Minister of Labour within two days. The money is then payable to the employee but if he cannot be located, it is placed in a special account and, if not claimed within two years, becomes part of the Consolidated Revenue Fund. An employer who complies with these provisions is not liable to prosecution.

Unlike some of the other legislation, the Alberta Masters and Servants Act places a ceiling on the wage claims that may be heard by a magistrate. In 1954 this was set at six months' wages or $500, whichever is the lesser. At the same time the same limit was placed on the amount of wages that a magistrate may order paid. The magistrate may direct payment of a further amount, not in excess of four weeks' wages or $100, whichever is lesser, and costs for improper dismissal. Alternatively, he may order payment of whatever wages the employee would have earned between the date of his dismissal and the date of the determination of the complaint or $100, whichever is lesser, and costs.

In Alberta, proceedings under the Act must be taken within six months after the termination of the employment or within six months after the last instalment of wages has become due, whichever is later. In Saskatchewan, the time-limit was extended in 1956 to one year after employment ceases or six months after the last instalment of wages has become due, whichever date is the later.

Most of the Acts provide for appeals. In Saskatchewan, a magistrate's order may be appealed to a judge of the District Court. In Manitoba, appeals are limited to cases where the amount in question is over $20 or where the magistrate has taken into consideration loss or damage to the employer.

In British Columbia, the principal instrument for the recovery of unpaid wages is the Semi-monthly Payment of Wages Act, first enacted in 1917. This Act requires an employer to establish at least two regular pay-days per month. It provides further that each payment must cover all wages earned by the employee up to a day not more than eight days before the pay-day. On summary conviction, in addition to a fine, the Court may require the employer to pay to the employee concerned all arrears of wages, and in default of payment may order sale of the goods and chattels of the employer by distress.

Already applicable to mining, manufacturing, logging, construction and the fishing industry, the Act was extended to cover hotels and catering in 1953. In 1957 its application was further widened to include a number of service industries and occupations, wholesale and retail trade, the transportation and taxicab industries and office occupations, the thought being that as far as possible all workers in the province should be covered by the Act. The Act does not cover any worker earning $4,000 or more under a yearly contract.

For most of the occupations and industries now under the Act a requirement that wages are to be paid at least as often as semi-monthly is also set out in minimum wage orders. Under a minimum wage order, however, only the minimum wage and not regular pay may be recovered.

In mines under the Coal Mines Regulation Act payment must be made on Saturday and not less often than every fortnight.

In British Columbia, as in several other provinces, an action against an employer for arrears of wages must be brought within six months after the date of the alleged offence.

Notice on Termination of Employment

In 1951 Manitoba amended its Hours of Work Act to make it mandatory, in all industries except farming, for employers to serve notice of dismissal and for employees to give notice of termination of employment. Under these provisions, the amount of notice varies with the pay period, but, except in the case of a person paid less frequently than once a month, may not be less than one regular pay period. If employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period.

In 1957, when these provisions were incorporated into the Employment Standards Act, two new provisions were introduced. One permits an employer to establish a practice under which he and his employees may agree to terminate employment with a shorter period of notice than that provided for in the Act. The practice will be considered officially adopted on the expiry of one month after the employees have been notified in writing, and by the posting of a notice, of the terms of the practice. New employees must be told of the practice when hired.

The other new provision established an alternative procedure for dealing with complaints that employment has been terminated without the proper statutory notice. Instead of initiating court action, an aggrieved person may make a written complaint to the Minister, who may look into the facts himself or refer the matter to the Manitoba Labour Board. If the person charged does not admit that he failed to give notice, a hearing may be held, after which the Minister or Board may dismiss the charge or make a declaration stating the amount of money due. An appeal may be made to a magistrate against such a declaration within 30 days. The magistrate may reverse, amend or cancel any order and his decision is final.

The only other provinces to make statutory provision regarding notice on termination of employment are Saskatchewan and Quebec.

In Saskatchewan, provisions requiring employers to give notice are contained in the Minimum Wage Act. These forbid an employer to discharge or lay off an employee who has been in his service for three months or more without giving him at least one week's written notice. "Lay-off" is defined as a temporary dispensation by an employer with the services of an employee for a period exceeding six consecutive days. One week's wages may be given in lieu of notice. This requirement applies to all occupations except farm labour and domestic service.

In respect of the period of notice, the employer must pay to the employee his actual earnings during the week or a week's normal wage, exclusive of overtime, whichever is greater. Where an employee's wages vary from week to week, his average weekly wages, excluding overtime, for the preceding four-week period may be taken as his normal wages.

In Quebec, under Section 1668 of the Civil Code, a domestic servant, journeyman or labourer engaged by the week, month or year who intends to leave his employment must give a week's notice if hired by the week, two weeks if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required. However, a worker may be discharged without notice if he is paid the full amount of wages to which he would have been entitled had the required notice been given.

Some decrees under the Quebec Collective Agreement Act require the giving of notice on termination of employment.

In the other seven provinces, the common law principle that either party is entitled to "reasonable" notice is generally followed. What is reasonable is usually determined by the pay period.

Fair Wages

During the 1951-1960 period, British Columbia revised its fair wage legislation, the legislation enacted to ensure the payment of fair wages on government contracts. New Brunswick adopted a fair wage law and the federal Government amended the regulations under the Fair Wages and Hours of Labour Act.

No new principles were introduced, however. The basic philosophy of this type of legislation is that workers engaged in government construction work should be paid such wages as are generally accepted as current in the district.

In 1951 British Columbia passed the Public Works Fair Wages and Conditions of Employment Act, which incorporated the fair wage policy first adopted by a resolution of the Legislature in 1900 and the provisions of the former Public Works Wages Act,

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which was designed to ensure the carrying out of the fair wage policy by empowering the Government to withhold any payments due to a contractor who had failed to pay proper wages.

Under this Act, all persons employed by a contractor or subcontractor on Government construction work must be paid "fair wages" and their working hours may not exceed eight in a day and 44 in a week, except in emergencies. The same conditions must be observed on public works subsidized by the Government.

"Fair wages and conditions of employment" are defined as the wages and conditions of employment that are generally accepted as current for workmen in the district in which the work is being performed. If the work is to be carried out in a district where no current wages or labour conditions have been established, the Minister of Labour may set the rates of wages and conditions under which persons working on the contract are to be employed. Any dispute as to what wages are to be accepted as current may be referred to the Minister for settlement.

One of the major changes made by the new Act was to centralize the fair wage policy for public works contracts in the Department of Labour. Under the previous legislation, wage clauses had been inserted in public works contracts by the contracting department, which was also responsible for their enforcement. The responsibility of determining what was a fair wage had been left to the Department of Labour. Under the present Act, responsibility for administration rests entirely with the Department of Labour.

The Minister may require a contractor to file with him, not later than the 15th day of each month, a list of his workmen, showing their wage rates, and the amounts paid and owing to each employee for the previous month. An employer who fails to submit the required information is liable to a penalty. The Minister, however, may waive this penalty or reduce the amount as he sees fit.

The New Brunswick Fair Wages and Hours of Labour Act, which was enacted in 1953, also requires contractors and subcontractors engaged in construction work for the provincial Government to pay their employees "fair wages". By "fair wages" is meant the current wages paid to other workmen performing the same class of work in the same district.

As under the British Columbia Act, a contractor must observe an eight-hour day and a 44-hour week. Apart from the hours set in industrial standards schedules, which cover only designated trades in a few areas, this is the only legal limitation on hours of male employees in New Brunswick. Hours may be extended only with the permission of the Lieutenant-Governor in Council or where an emergency is declared by the Minister. The Lieutenant-Governor in Council has authority to fix an overtime rate in such cases.

A government department or Crown corporation contemplating the letting of a contract must advise the Minister of Labour of the nature of the work and the classes of employees likely to be employed. It is the Minister's responsibility to prepare fair wage schedules that will apply to the work to be done. If the same class of work is not being performed locally, the Minister may prepare minimum wage schedules instead.

As is the practice in other jurisdictions, the contractor is required to post fair wage schedules and to keep records of wages. Departmental inspectors inspect public works projects and if any violations are disclosed may direct payment of wages due. If necessary, the Minister may withhold up to 25 per cent of the payments owing or such lesser amount as he deems sufficient to satisfy the wage claim. Before final settlement, the contractor is required to submit a sworn statement that wage rates have been in accordance with the schedule and that no wages are in arrears.

In 1960, the regulations under the federal Fair Wages and Hours of Labour Act were amended by the addition of a new provision regarding overtime. Unless the Minister of Labour orders otherwise, employees working on federal Government construction contracts must be paid time and one-half the wage required to be paid under the contract for hours worked beyond the 44-hour weekly limit set by the Act. This premium rate is also payable for all hours worked in excess of eight in a day, if the Minister so orders. Previously, no specific overtime rate had been set, but the Minister had authority to set an overtime rate under special circumstances.

Part 2 - Private Employment Agencies

In the past decade, Manitoba, British Columbia and Ontario replaced their legislation dealing with private employment agencies to take changing conditions into account. All three new Acts provided for government regulation of employment agencies in order to prevent abuses.

Manitoba's former legislation, first enacted in 1918, had provided for the establishment of a Government Employment Bureau and prohibited the operation of any private fee-charging agency. In 1950 provisions regarding the Government Employment Bureau were repealed in view of the operation in the province of offices of the National Employment Service set up under the federal Unemployment Insurance Act, and a new statute, the Employment Services Act, was enacted. It provides that every employment agency operated by a person, association or municipal or other corporation must be licensed by the Department of Labour, whether or not it charges a fee, and the licence must be renewed annually.

The earlier legislation in British Columbia and Ontario, also passed between 1910 and 1920, provided for the licensing of private employment agencies. In other provinces laws were enacted in the same period prohibiting the operation of private fee-charging employment agencies altogether. Such laws are still on the statute books in Alberta, New Brunswick, Nova Scotia and Saskatchewan. In Quebec, the first such law, passed in 1910, provided for a Provincial Employment Service, and prohibited the operation of any private agency without a licence. The Provincial Employment Service has been continued. Services to job seekers and employers are provided free of charge.

British Columbia replaced its legislation in 1955. The Employment Agencies Act enacted in that year requires employment agencies to register annually with the Department of Labour, and prohibits an agency from charging any person seeking employment a fee for procuring employment for him or for providing him with information regarding employment.

As a result of considerable criticism of private employment agencies in the late 1950's, Ontario repealed its legislation in 1960 and enacted a new statute, the Employment Agencies Act. The Act provides for government supervision of all employment agencies, through the requirement that every agency, including any person carrying on a counselling or aptitude-testing service, must obtain a yearly licence from the Department of Labour.

The Employment Agencies Act provides only a framework of rules for the licensing and supervision of employment agencies, leaving more detailed requirements to be prescribed by regulation. Among the matters to be dealt with by regulation are the qualifications of applicants for licences, the fee that may be charged by employment agencies, and provision for inspection.

With respect to the qualifications required of an applicant for a licence, the Act lays down the general criteria that an applicant must pay a licence fee, furnish security and satisfy the Supervisor of Employment Agencies (the licensing authority) that he is "worthy of public confidence". Where, after a hearing, a licence is refused, suspended or revoked, an appeal may be lodged in the County or District Court.

Like some of the earlier legislation, the Manitoba and British Columbia Acts permit some exceptions, exempting registered trade schools which try to secure employment for their students, and agencies which operate for the sole purpose of hiring employees for one employer. Trade unions are also exempted in British Columbia.

In British Columbia and Manitoba, an employment agency is prohibited from sending any person seeking work to any place of employment where a legal strike or lockout is in progress without informing him of the fact.

The British Columbia legislation contains definite requirements concerning the keeping of records and makes provision for inspection by the Department of Labour. Record-keeping requirements are also to be set out in the Ontario regulations.

It is of interest to note that a 1959 amendment to the Unemployment Insurance Act repealed a provision in that Act authorizing the making of regulations for the control and licensing of private employment agencies, indicating that the matter was considered a provincial responsibility.

In Quebec, besides the employment offices run by the Provincial Government (29 of which were in operation in 1960), the Employment Bureau Act permits the carrying on of employment agencies, subject to certain conditions, by religious and charitable groups, trade unions, and employers who have their own employment office. These conditions are that an annual permit must be obtained from the Minister of Labour, a register must be kept, and no fee may be collected from any person seeking employment. At the end of March 1960, 222 of these permits were in force.

Part 3—Anti-Discrimination Laws

A major development during the decade was the enactment of legislation designed to eliminate discriminatory practices in respect of employment and public accommodation, although two provinces, Ontario and Saskatchewan, had passed anti-discrimination laws in the forties.

In 1944, Ontario enacted the Racial Discrimination Act, making it an offence to display or publish any notice, sign, symbol or other representation expressing racial or religious discrimination. Saskatchewan passed a Bill of Rights Act in 1947 which asserted certain civil rights that were to be enjoyed by all persons without discrimination because of race, creed, religion, colour, or ethnic or national origin. These included the right to obtain and retain employment, the right to own and occupy property, the right to membership in professional associations and occupational organizations and the right to education. No enforcement procedures other than provision for a court action were set out in these early laws, and no administrative agency was established to secure compliance with their provisions.

Between 1950 and 1960 Parliament and six provincial Legislatures passed Fair Employment Practices Acts prohibiting discrimination in employment on grounds of race, colour, religion or national origin. Five provinces passed Fair Accommodation Practices Acts, which provide that services or facilities in public places must be offered equally to all. New federal regulations were adopted in 1960 aimed at halting discrimination in the provision of accommodation under the National Housing Act.

During the same period, also, Parliament and seven provinces enacted legislation designed to prevent economic discrimination against women workers solely on grounds of sex.

Fair Employment Practices

The movement for positive government action against discrimination in employment began in 1951 when Ontario enacted the Fair Employment Practices Act, which provided that race, creed, colour, nationality, ancestry or place of origin must not be determining factors in the hiring, firing, promotion or conditions of work of employees or in admission to trade unions. With certain differences in the interpretation given to the terms national origin and religion, all the Acts contain the same basic provision.

The federal Government was next in the field, passing the Canada Fair Employment Practices Act in 1953, which forbade discrimination in employment within the legislative jurisdiction of the Parliament of Canada.

Two other federal anti-discrimination measures were introduced about the same time. One was a 1952 amendment to the Unemployment Insurance Act which required the Unemployment Insurance Commission to ensure that there was no discrimination by the National Employment Service on grounds of racial origin, colour, religious belief or political affiliation in referring workers to jobs. In effect, this incorporated into law a policy previously followed by the National Employment Service. The other measure was an Order in Council, effective January 1, 1953, that required a non-discrimination clause to be inserted in all federal Government construction and supplies contracts. The clause requires the contractor to refrain from discriminatory employment practices based on race, national origin, colour or religion.

The second province to adopt this type of anti-discrimination law was Manitoba, which passed a Fair Employment Practices Act in 1953. Similar legislation was enacted in Nova Scotia in 1955 and in British Columbia and New Brunswick in 1956. In the same year (1956), Saskatchewan repealed the fair employment practices provisions of its Bill of Rights Act and replaced them by a separate statute, the Fair Employment Practices Act, which contained provisions for investigating and settling complaints and for enforcement similar to those in the other fair employment practices laws.

Under all the Acts, an employer may not refuse to employ or discharge any person or otherwise discriminate against any person in regard to employment or any term or condition of employment because of his

race, colour, religion or national origin. He is also forbidden to publish advertisements, to circulate application forms and, except in Manitoba, to make oral or written inquiries in connection with employment which indicate discrimination.

In 1959 Saskatchewan amended its Act to prohibit not only any direct or indirect expression of discrimination but also any expression of intent to discriminate. The inclusion in an application form, advertisement or inquiry of any question or request for particulars as to an applicant's race, colour, religion or national origin was also forbidden.

Except in Nova Scotia and Ontario, an exception is permitted, however, where a preference as to race, colour, religion or national origin is based upon a *bona fide* occupational qualification, that is, a qualification actually and legitimately required because of the nature of the work.

These prohibitions apply to employment agencies as well as to employers. In addition, the federal Act and the Acts of Manitoba, Nova Scotia and Saskatchewan expressly forbid an employer to use an employment agency which practises discrimination.

The Acts also forbid discriminatory action by trade unions. No union may exclude anyone from membership, or expel, suspend or otherwise discriminate against any of its members because of race, colour, religion or national origin.

Some exceptions are provided for in all the provincial Acts. These are: employers with fewer than five employees (excluded in all Acts except those of Nova Scotia and Saskatchewan), domestic servants in private homes (excluded except in Nova Scotia) and non-profit organizations (excluded under all the Acts). As enacted, the Nova Scotia Act exempted employers with fewer than five employees but, by an amendment in 1959, coverage was extended to all employers, regardless of the number of their employees. An employee of fewer than five persons is also excluded from the federal Act.

Two of the Acts provide exceptions to the general rule that educational institutions (like other non-profit organizations) are excluded. The British Columbia Act applies to schools operating under the Public Schools Act. In Saskatchewan, educational institutions are covered but the right of a school or board of trustees to hire persons of a particular religion where religious instruction forms part of the curriculum is recognized. The Manitoba, New Brunswick and Saskatchewan Acts are binding on the Crown (including, in Manitoba, Crown companies). The federal Act also applies to Crown corporations.

Enforcement procedures are initiated by the filing of a written complaint by an aggrieved individual (in New Brunswick, with the Minister of Labour; in the other jurisdictions, with the Director, an officer of the Department charged with the duty of dealing with complaints).

If the complaint is considered a valid one, an attempt at settlement is made through a departmental inquiry. Failing settlement through this means, the Minister is empowered to set up a commission of one or more persons to ascertain the facts and make recommendations as to how the matter can best be settled. The commissions are of the *ad hoc* type except in British Columbia, where the Board of Industrial Relations acts as a commission of inquiry. In practice, most complaints are settled at the first stage.

The board or commission, as the case may be, has full authority to summon witnesses, order the production of documents and enter workplaces, and must give the parties an opportunity to be heard.

Under all the Acts but those of British Columbia and Ontario, the Minister is required to give each of the parties a copy of the recommendations and may publish them if he thinks it advisable.

The Minister may issue whatever order is necessary to carry out the commission's recommendations, which may include reinstatement, with or without compensation for loss of employment. This order is final and binding on the parties except in Manitoba, where a person affected by an order has 10 days in which to appeal to a judge of the Court of Queen's Bench.

As a last resort, in case of non-compliance, there is provision for prosecution in the courts, for which the consent of the Minister is necessary. Failure to comply with an order is made an offence punishable by a fine (in most of the Acts, up to $100 for an individual and $500 for a corporation or trade union). Under some of the Acts, a court may order an employer who has been convicted of a violation of the Act to reinstate an employee and pay him compensation for loss of wages.

Most of the Acts protect an individual who lodges a complaint or assists in the making of a complaint against discrimination or discharge by the employer.

Further, under most of the Acts, the right of an aggrieved individual to take action in court under any other provisions of the

Act is not abridged. The Manitoba Act stipulates, however, that a person who initiates court proceedings may not make a complaint and *vice versa*.

In view of the fact that legislation by itself cannot change the attitudes of mind that are at the root of discrimination, some of the Acts made provision for the carrying on of educational programs to promote a public awareness of the law. The federal Act and the Manitoba, Nova Scotia and Saskatchewan Acts authorize the Minister to undertake inquiries and other measures to promote the purposes of the Act. Under this authority the federal Department of Labour has sponsored radio talks and radio and television plays. It has also distributed pamphlets and posters and sponsored films showing the harmful effects of discrimination in employment.

In Ontario, a three-member Anti-Discrimination Commission was set up in 1959 to carry on a program of education to promote the elimination of discriminatory practices. Through its efforts, pamphlets and posters have been widely distributed. As part of the drive to eradicate prejudice against particular groups on account of race, language or religion, December 4 to 11, 1960, was proclaimed Human Rights Week for observance in the secondary schools of Ontario.

Fair Accommodation Practices

Ontario passed the first Fair Accommodation Practices Act in 1954. The preamble to this Act read:

> Whereas it is public policy in Ontario that places to which the public is customarily admitted be open to all without regard to race, creed, colour, nationality, ancestry or place of origin; whereas it is desirable to enact a measure to promote observance of this principle; and whereas to do so is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations . . .

Saskatchewan passed a Fair Accommodation Practices Act in 1956 and substantially similar legislation was enacted in New Brunswick and Nova Scotia in 1959 and in Manitoba in 1960.

All the Acts provide that the facilities, accommodation and services of places that are customarily open to the public—hotels, restaurants, barber shops, theatres, etc.—must not be denied to anyone because of his race, creed, colour, nationality, ancestry or place of origin. They also prohibit indications by signs, symbols, or advertisements in the newspapers, on the radio or by means of any other medium of communication that admission to any public establishment is restricted for racial or religious reasons. In Saskatchewan and Manitoba, these prohibitions apply to the Crown as well as to the general public. Places of worship are exempted in Manitoba.

In all five provinces action is initiated by the filing of a written complaint (usually with the Department of Labour) by the individual alleging discrimination. Complaints are dealt with in the same manner as complaints under the Fair Employment Practices Acts, i.e., by investigation and conciliation and, if necessary, through a commission of inquiry.

In Manitoba, New Brunswick and Ontario, recommendations of a commission of inquiry may be implemented by an order of the Minister, which is binding on the persons affected. In Manitoba, the Minister must furnish the interested parties with a copy of the recommendations.

The Nova Scotia and Saskatchewan Acts rely on publicity to secure compliance. In these provinces the Minister responsible for the administration of the Act is not authorized to issue a binding order. He is required, however, to issue a copy of the commission's recommendations to each of the persons concerned, and he may order publication of the commission's findings, if he sees fit. Where these measures do not secure compliance, the complainant must seek redress through court action, for which the written consent of the Minister is required.

A person found guilty of a violation of the Act is subject to a maximum fine of $50 ($100 for a corporation). In Manitoba, Nova Scotia and Saskatchewan, higher penalties become applicable after a first offence.

The relevant Saskatchewan provisions state that a prosecution may be brought upon the information of any person alleging that there has been discrimination, and, where it is established that a person's right to accommodation has been denied or restricted, the onus is on the accused to prove that the restriction was *not* because of race, religion, colour or national origin.

Under all the Acts, the Minister may apply to the courts for an order enjoining a person who has been convicted of an offence from continuing the violation. In Manitoba, New Brunswick and Ontario, an injunction may be applied for, however, only with respect to a person who has been found guilty of displaying discriminatory signs or publishing discriminatory advertising.

In 1960, the federal Government, with a view to preventing discrimination in the provision of housing accommodation under

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the National Housing Act, amended the national housing loan regulations. The amendments make it a condition of every loan made by an approved lender and insured by Central Mortgage and Housing Corporation that the borrower will not discriminate against any person by reason of his race, colour, religion or origin. They also provide for a review by an independent arbitrator of any allegations of discrimination.

Any merchant, builder or rental entrepreneur found guilty of practising discrimination on grounds of race, colour, religion or national origin will be debarred from obtaining further loans under the Act for a period of three years. To ensure that this penalty is made known to all National Housing Act borrowers, a clause to this effect will be inserted in every National Housing Act mortgage.

Equal Pay

The principle of equal pay for equal work was first embodied in a law in Canada in 1951 when Ontario passed the Female Employees Fair Remuneration Act, effective from January 1, 1952. In 1952 Saskatchewan enacted an Equal Pay Act, followed by British Columbia in 1953. The federal Act (applicable to federal works, undertakings or businesses) was passed in 1956, as were the Acts of Manitoba and Nova Scotia. The Alberta Legislature approved equal pay provisions in 1957, and in 1959 Prince Edward Island became the seventh province to adopt such legislation.

Although there is some variation as to details, all the Acts have the same basic purpose—to prevent discrimination in rates of pay solely on the basis of sex. The British Columbia, Nova Scotia, Ontario and Prince Edward Island Acts prohibit an employer from paying a female employee at a rate of pay less than the rate paid to a male employee "for the same work done in the same establishment." The Saskatchewan Act requires women to be paid at the same rate as men for "work of comparable character done in the same establishment." In Manitoba, the terms used are "identical or substantially identical work." The Manitoba Act also differs from the others in that it forbids discrimination against either sex in the payment of wage rates. It prohibits an employer from paying to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment. Both the federal Act and the Alberta Act require women to be paid at the same rate as men for identical or substantially identical work. In all cases a difference in rates of pay based on any factor other than sex does not constitute a failure to comply with the legislation.

The provincial equal pay laws cover practically all types of employment. Employers of domestic servants and farm labourers are excluded in Alberta. In Manitoba and Saskatchewan, the provincial Government is considered as an employer under the Act.

The federal Act applies to Crown companies. It does not cover classified civil servants, however, since they are under the jurisdiction of the Civil Service Commission, which sets rates of pay according to classifications based on job content, irrespective of whether the work is to be done by men or women.

Provisions for enforcement are similar to those contained in the fair employment practices Acts, with the same emphasis on informal methods of investigation, conciliation and persuasion. Like the fair employment practices and fair accommodation practices laws, equal pay laws are enforced only through complaint.

An aggrieved employee must file a written complaint with the Director (under the federal Act, with the Minister of Labour; in Alberta, with the Chairman of the Board of Industrial Relations; and in Prince Edward Island, with the Labour Relations Board).

In all jurisdictions except Prince Edward Island, a two-stage enforcement procedure is provided for: first, investigation by an officer of the Department of Labour, and second, a more formal inquiry by a board, commission or referee. In Alberta and British Columbia, if the officer is unsuccessful in effecting a settlement, the complaint may be referred to the Board of Industrial Relations. Under the federal and Manitoba Acts, the second stage is the appointment of a referee, who may or may not be an officer of the Department of Labour, to conduct an inquiry and make recommendations. All the Acts stipulate that the parties must be given full opportunity to be heard.

The recommendations of the board, commission or referee, as the case may be, may be put into effect by an order of the Minister, except under the federal and Alberta Acts, where the referee and the Board of Industrial Relations, respectively, may issue an order. Compliance with the order is required in all cases.

In Prince Edward Island, the Labour Relations Board is authorized to "inquire into the complaint and endeavour to effect a settlement of the matters complained of."

There is no provision in the Act for a Board order, with which compliance is required.

One province, Manitoba, imposes a time-limit for the filing of complaints. An employee who fails to lodge a complaint within 30 days after receiving his or her first wages at an unlawful scale is barred from making a complaint and having it dealt with under the Act.

While the purpose of the Acts is to ensure fair remuneration through settlement by conciliation rather than by prosecution, they all nevertheless provide penalties for employers who are convicted of failing to comply with the Act or an order. The fine that may be imposed varies from one jurisdiction to another, but is usually a maximum of $100. Some of the Acts provide that, in addition to imposing a fine, a court may order an employer to reimburse an employee for the wages (subject to certain limits) she lost as a result of his failure to comply with the Act.

Under all but three of the Acts, a person who lays a complaint is protected against discrimination or discharge by the employer. Most of the Acts provide also that an aggrieved person may institute court proceedings against an employer, but stipulate that an employer may not be penalized twice for the same offence.

Under the federal and Nova Scotia laws, the Minister is authorized to undertake "inquiries and other measures" to promote the purposes of the Act.

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Part 4—Workmen's Compensation

The main developments in workmen's compensation legislation in the past decade were a continued upward revision of benefits, a reduction of the waiting period and a general extension of coverage. Although amendments to the Acts were frequent, the changes did not affect the principles on which the legislation is based. Basically, the system of workmen's compensation inaugurated in 1914 with the enactment of the Ontario Act remains unchanged.

Between 1952 and 1959 eight provinces raised from 66⅔ to 75 the percentage rate of earnings on which disability benefits are based. In some provinces the rate was raised in two stages, first to 70 per cent and later to 75. In all provinces disability pensions are now based on 75 per cent of average earnings, Saskatchewan and Ontario having adopted a 75-per-cent rate before 1950.

In the calculation of disability pensions, any excess of annual earnings above the ceiling provided in the Act is disregarded. The maximum annual earnings on which compensation may be paid, which in 1950 were either $2,500 or $3,000 in all provinces, were increased two or three times during the decade in all jurisdictions except Newfoundland, where the original $3,000 maximum adopted in 1951 remains in effect. The highest ceiling on annual earnings is now $6,000, the maximum set by the Saskatchewan Legislature in 1960.

The minimum compensation payment that may be made to a disabled workman was also increased in the ten-year period in most provinces and now ranges from $15 to $30 a week. One of the new features of the Nova Scotia Act, as amended in 1960, is that it set a new minimum award for a permanently and totally disabled workman with dependent children equal to the amount payable to a widow with the same number of children under 16 years of age. For a permanently and totally disabled workman without at least two children under 16 years the minimum compensation award is, as before, $100 a month. In making this amendment, the Legislature provided that the costs of paying compensation at the higher rate were to be paid from the Consolidated Revenue Fund.

In another 1960 amendment, the Nova Scotia Legislature increased permanent partial disability pensions in respect of accidents that occurred before April 1, 1959, providing that all pensions being paid on the basis of 66⅔ or 70 per cent of average earnings were to be re-calculated and paid on the basis of 75 per cent of earnings, the additional costs to be borne by the Consolidated Revenue Fund. A 75-per-cent compensation rate was adopted in 1959 but was made applicable only in respect of accidents occurring on or after April 1, 1959. This amendment made the 75-per-cent rate applicable in all permanent partial disability cases. Disability pensions in respect of past accidents were increased in only one or two instances previously. In 1954 the British Columbia Legislature increased all permanent disability awards, both total and partial, made before March 18, 1943.

In Saskatchewan, provision was made in 1953 for the payment of compensation to a workman for a recurring disability on the basis of his current earnings if they were higher than his earnings at the time of the original injury.

As a result of frequent amendments, benefits to dependants in fatal cases were substantially increased in all provinces. Widows' pensions, which ranged from $40 to $50 a month in 1950, now range from $50 in Prince Edward Island to $100 in Saskatchewan. In Saskatchewan, the pension of $100 a month provided for in 1960 is payable only to the age of 70, however. After the age of 70, when the recipient becomes eligible for old age security payments, the pension becomes $75 a month. As a precedent for such action, the Alberta Legislature in 1952 and again in 1956 granted an increase in the benefit to widows or invalid widowers who were in receipt of compensation at an earlier scale of benefits until such time as the recipient became eligible for assistance under social legislation.

The immediate lump sum payment made to a widow to help meet the special expenses arising from the death of her husband was correspondingly increased. Only two provinces now retain the $100 lump sum that was everywhere provided in 1950. In four provinces the amount paid is now $300.

In Alberta (1952), Manitoba (1953), New Brunswick (1958) and Ontario (1960), all widows' pensions being paid according to a lower scale of benefits were brought up to the current level but no increase was provided in the current rate. Children's allowances were also raised to the current scale of benefits in Manitoba (1955), New Brunswick (1957) and Ontario (1960). In most provinces, increases in benefits are made applicable to all existing pensioners, with the additional costs in some instances (New Brunswick in 1958 and 1960 and Nova Scotia in 1959) being paid from the Consolidated Revenue Fund.

In Nova Scotia, the ceiling on the monthly allowance payable to a widow and children, which was raised in 1956 to permit payment for five rather than four children, was removed in 1960, enabling the Board to pay benefits in respect of all children in a family under 16 years, regardless of their number. Prince Edward Island is the only province which places a limit (six) on the number of children for whom an allowance is payable.

Children's benefits were doubled in the ten-year period. Ranging from $10 to $15 a month in 1950, they now vary from $20 to $35. Higher pensions, varying from $30 to $50 a month, are provided for orphan children. The amounts paid in 1950 ranged from $15 to $25 a month.

A new provision in Saskatchewan in 1959 gave the Workmen's Compensation Board discretionary power to pay a lump sum of not more than $50 to each orphan child. A further amendment in the same year authorized payment of compensation for educational purposes, at the discretion of the Board, until a child reaches the age of 19. Neither of these provisions appears in any other provincial Act. In the other provinces no compensation may be paid in respect of a child, other than an invalid child, beyond the age of 18.

A new and separate allowance, not exceeding $75 a month, for a wholly dependent mother of a deceased workman was introduced in Manitoba in 1960. All persons in this category in receipt of benefits when the amending Act went into force were made eligible for the new allowance. Previously, a dependent mother was classed with other dependants for whom the Board is authorized to make a suitable award in proportion to the pecuniary loss sustained because of the death of the workman.

Payment of benefits to a common law wife under specified conditions and at the discretion of the Board was authorized in Alberta and Manitoba during the decade. In Saskatchewan and Alberta, the duration of a common law relationship necessary to qualify for benefits under the Act was reduced. In British Columbia, in 1959 a common law wife in receipt of compensation was made eligible for the same benefits as a widow on remarriage.

Allowances for funeral expenses, which in 1950 varied between $100 and $175, were everywhere increased from time to time, and now range from $200 to $400, the latter amount being the allowance payable in Quebec. During the period, too, the Boards in five provinces were empowered to pay a further sum where it was necessary for a workman's body to be transported from the place of death to the place of burial. All provinces now provide for such an allowance. The Manitoba and Saskatchewan Acts made provision for a grant of up to $50 for the purchase of a burial plot. This provision has no equivalent in the other Acts.

In 1950 a waiting period of seven days was common, and in one province it was necessary for a workman to be disabled for 14 days in order to be paid compensation for the first three days of his disability.

Between 1950 and 1960 a shorter waiting period was provided for in all provinces except New Brunswick. In New Brunswick, the waiting period was reduced, from seven to four days, in 1948. In three provinces the waiting period was shortened to one day: Saskatchewan (1950), Alberta (1952) and Manitoba (1959). In the remaining provinces the waiting period is now three, four or five days.

The coverage of the Acts, originally comprehensive, has been broadened from time to time in all provinces. Originally designed to apply to industrial employment, the Acts now cover commercial establishments as well. Retail stores, hospitals, nursing homes, hotels, restaurants and radio stations have been brought within the scope of the Acts in recent years. Shops, hotels and restaurants are now covered in all provinces except Quebec; hospitals are covered in all provinces except Prince Edward Island and Quebec.

In all provinces there is provision for elective coverage of most non-covered employment on the application of the employer. Provision was made in British Columbia in 1954 for elective coverage of domestic servants and "independent operators," the latter term being chiefly designed to cover commercial fishermen.

New or increased expenditures for rehabilitation and training were authorized in five provinces. The most recent increase was

in Quebec, where the amount authorized was raised from $100,000 to $300,000 in 1960. In British Columbia in 1952, and in Nova Scotia in 1959, former limits on annual expenditures were removed, leaving the amount that might be spent to the discretion of the Board.

Since the Boards have full authority to furnish injured workmen with whatever medical care is deemed necessary to promote prompt and complete recovery, amendments in connection with medical aid were of detail rather than of principle. Several Acts were amended to provide for treatment by registered osteopaths, chiropractors, etc., subject, as with all medical aid, to the supervisory control of the Board.

In a number of provinces—British Columbia, Nova Scotia, Saskatchewan and Manitoba—a medical appeal procedure was established, enabling an injured workman dissatisfied with the disposition of his claim on medical grounds to be re-examined by one or more specialists and to have his claim reviewed. In Alberta and British Columbia, changes were made in the original appeal procedure provided. In British Columbia, as a result of a 1959 amendment, a case in which a workman feels aggrieved at a decision of the Board may be reviewed by a three-member Medical Review Panel, whose decisions are binding on the Board. A review may be requested by either the workman or his employer. One member of the panel is selected by the workman and one by his employer from a list of specialists prepared by a medical committee appointed by Order in Council. A Chairman of Medical Review Panels, appointed by the Lieutenant-Governor in Council, serves on each panel as Chairman.

In a 1960 amendment the Newfoundland Board was given authority, subject to the approval of the Lieutenant-Governor in Council, to appoint a committee of medical referees to investigate, in relation to any claim for compensation, the nature of a disease named in the schedule of industrial diseases, and its relationship to any of the work processes listed opposite the disease in the schedule. The committee's decision is to be final and binding on the Board and the claimant as to the medical findings in the case.

Greater administrative discretion was given to the Boards through the adoption of a broader definition of "accident" in Alberta, British Columbia and Manitoba, making it possible to allow a claim for any disablement, including an industrial disease, that can be shown to have arisen by reason of the nature of the employment. In some provinces compensation may be granted for a disease not listed in a schedule, either by reason of the wider definition of "accident" or through the power given to the Board to award compensation for any disease shown to be peculiar to or characteristic of a particular industrial process, trade or occupation. A number of new diseases were added to the schedule in most provinces in the ten-year period. As an example, diseases due to radiation were made compensable in Newfoundland and Nova Scotia in 1960. In several provinces limitations previously imposed on payment of compensation for silicosis were removed or relaxed.

In Manitoba, British Columbia and Nova Scotia, a Compensation Counsellor was named to assist injured workmen with compensation problems.

In three additional provinces—Manitoba, Newfoundland and Nova Scotia—the Board was empowered to establish a Second Injury Fund. The purpose of such funds is to relieve employers in a class of the total cost of a second accident occurring to a workman who had suffered a disability in previous employment.

During the period the two federal compensation laws were also amended.

The Merchant Seamen Compensation Act, which applies to seamen who are not within the scope of a provincial workmen's compensation law, was amended in 1953 and again in 1957 for the purpose of bringing benefits into line with those payable under the provincial Acts. Compensation under the Act is paid by the employer (the shipping company), who is required to carry accident insurance to cover his liability.

The 1953 amendments reduced the waiting period from seven to four days, increased the maximum annual earnings on which compensation is based from $2,500 to $3,600 and raised the benefits payable in death cases.

In 1957 maximum annual earnings were increased to $4,500, and the percentage of average earnings used in computing compensation for disability was raised from 66⅔ to 75. Further increases were provided in death benefits, making a widow eligible for an immediate lump sum of $200, a monthly pension of $75, and an allowance of $25 a month for each child under 18 years. A payment of $35 a month was provided for an orphan child. A maximum of $200 is allowed for funeral expenses, together with a further sum, if required, for transportation of the body to the place of interment.

The amendments made to the Government Employees Compensation Act involved no changes in benefits. Under this Act an employee of the Crown who is disabled by accident or industrial disease arising out of his employment is eligible for the benefits payable under the workmen's compensation law of the province in which he is usually employed. Provision for payment of compensation in accordance with the Workmen's Compensation Act of the province where the employee is usually employed was made in 1955 amendments. Under the previous wording, compensation was paid according to the law of the province in which the accident occurred or the industrial disease was contracted. By a further amendment, the Minister of Labour was given authority to promote accident prevention programs in the Public Service of Canada.

Claims under the Government Employees Compensation Act are adjudicated by the provincial Workmen's Compensation Board, which acts as the agent of the federal Government.

Part 5—Industrial Safety and Health

During the decade, many developments took place in the various kinds of legislation aimed at the safety of work places and equipment and the control of industrial health hazards.

The basic purposes and methods of regulation in the earliest types of safety legislation, factory and boiler Acts, have not recently been changed, but a number of amendments were found necessary.

There were substantial developments in the legislation dealing with elevators and lifts, a type of legislation that secures the safety of the public as well as of people at work. The trend was to extend provisions that originally applied only to lifting devices in specified work places to passenger and freight elevators, wherever they are found, and also to some other types of lifting devices, among them ski tows. The amount of new legislation on this subject is considerable.

The growth of the gas and oil industry has resulted in new hazards and new ways of controlling them. A whole new body of legislation has grown up, applying to the stages of production, transportation, storage and distribution, and, finally, the design, installation and servicing of oil and gas burning equipment.

In the field of construction, in which the equipment used and the methods of work have until recently been largely a matter of local supervision, some provinces have increased their activities.

The safety legislation of the past decade reflects the increasing use being made by government authorities of the safety codes of standard-making bodies, particularly those of the Canadian Standards Association. Drafted by committees of technical experts, drawn principally from government and industry, these codes provide a uniform standard which can be made legally enforceable in any province when adopted as regulations by the appropriate authority, or used as a guide by government inspectors, employers, employees, and others concerned with the safety of workers and the public.

Before 1950 the provincial labour authorities were associated with the Canadian Standards Association in drafting the existing CSA codes concerning boilers and pressure vessels, elevators, electricity, mechanical refrigeration, identification of piping systems, head and eye protection, and window cleaning, and since that time have participated in the revision of existing codes and the development of new standards in other hazardous fields.

The past ten years have seen the development of safety codes for the woodworking industry (1952), for the guarding of punch presses at point of operation (1957), and codes governing the installation of oil-burning equipment (1957) and gas burning appliances and equipment (1958).

Factories Legislation

At the beginning of the decade, in all provinces except Newfoundland and Prince Edward Island, Factories Acts had been in effect for a number of years. In Ontario, the legislation is called the Factory, Shop and Office Building Act; in Quebec, the Industrial and Commercial Establishments Act. In the other provinces they are called simply Factories Acts but, as in Ontario and Quebec, they cover other premises besides manufacturing plants.

Laundries and dry-cleaning plants and other places where goods are repaired or serviced are covered in all provinces; shops and office buildings in New Brunswick, Quebec, Ontario and Alberta; construction projects in Quebec; and amusement places in New Brunswick. (The Quebec Public Building Safety Act, administered by the factory inspectors, applies to office buildings of more than two storeys; stores having a floor area of more than 3,000 square feet; amusement places; and other public buildings.)

The general intent of these Acts is to require factories and the other work places covered by the Act to be kept in such a way that the safety or health of the persons employed will not be endangered. Each Act contains provisions regarding lighting, heating, cleanliness, ventilation, and space requirements; sanitary facilities; rest rooms and first aid; fire prevention and protection; guarding of dangerous machinery and places,

dangerous substances and dangerous fumes; and, in most cases, limits upon excessive hours of work or night work of women and young people. Under most of the Acts, detailed regulations may be issued establishing safety rules for some particular premises, operation or substance.

Factory Acts have not been substantially changed in the decade, but amendments have been made on particular points and a number of important regulations dealing with particular premises or operations have been issued or revised. These changes are reviewed below.

Quebec

In Quebec, the special regulations for the protection of employees working on construction projects, first issued in 1950, were replaced in 1956 and amended in 1958. As they now stand, they apply to any work of construction or demolition and to any "trench", meaning any excavation in the ground of 4 feet or more in depth, where the depth exceeds the width.

Every employer, before starting construction or excavating operations within the scope of the order, is required to notify in writing the labour inspection office of the district where the operations are to be carried out. He is also required to submit drawings and specifications of a trench. Before being used in construction or trench excavating operations, all equipment, portable or otherwise, is to be examined by a qualified person designated by the employer. An inspector may, by written notice, require any equipment, including freight elevators, scaffolding, cranes, or other gear to be made safe and, in case of any imminent danger, "he shall order the immediate suspension of the operation of any apparatus and forbid the use of any defective tools and require the immediate repairing thereof."

The regulations set out specific standards in respect to hoistways, hoisting apparatus and cranes and derricks. An approved signal system must be installed to assure proper operation of freight and other elevators. Standards in respect to scaffolding were already required under the Scaffolding Inspection Act, scaffolding having been subject to special rules and inspection in Quebec since 1908.

Rules in regard to trench excavation deal with shoring and timbering, the use of drilling machines and explosives, provision of protective hats and protection from gases and fumes. Persons under 18 years of age may not be employed in trench drilling operations.

There is also a specific rule in respect to temporary floors in steel buildings, and this was amended in 1958. The provision now states that, for the construction of steel structure buildings, a temporary floor of a specified standard is to be erected one floor under the one on which men are working. In the absence of such a temporary floor, the inspector, with the authorization of the chief inspector, may order the immediate evacuation of all or part of the building under construction.

In 1954, the CSA *Safety Code for the Woodworking Industry* was adopted as regulations under the Quebec Act. The Code, which is intended as a guide for the safe installation, operation and maintenance of woodworking machinery, deals primarily with "point of operation" hazards on machinery used in connection with the finishing of wood products. In the section on plant layout are set out rules for the proper location of machinery and the maintenance of floors and aisles. A number of requirements for machine control designed to safeguard the operator are listed and guarding requirements for specific machines such as circular saws and band saws are set out in considerable detail. Among other operating rules, the regulations stipulate that a systematic inspection of all woodworking machines and safety equipment must be carried out; provide that operations involving special hazards must be done on suitable machines; and require operators in some operations to be provided with goggles and other protective equipment.

Ontario

The Ontario Act was amended several times in the period. In 1952, the requirements with respect to fire escapes were changed to provide that in factories, shops, office buildings or restaurants erected after July 1, 1952, outside fire escapes may not extend above the third floor. Previously, they could extend to the fifth floor.

The practice of requiring plans to be submitted for certain types of buildings before construction or alteration had been instituted as early as 1913. At the beginning of the decade, an owner was required to submit plans for any building intended to be used as a factory, or a building of more than two storeys in height to be used as a shop, restaurant or office building. A 1953 amendment authorized the Department of Labour to collect fees for its work in examining and approving the drawings and plans. In 1957, the requirement to submit plans was extended to one-storey buildings covering 5,000 square feet or more.

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A number of changes were made in the period with respect to enforcement. In 1957 the provisions giving the inspector power to act when he finds a condition dangerous to the safety and health of persons in a factory were broadened and clarified and made specifically applicable to a shop, restaurant, office or office building. As reworded, the section provides that where an inspector considers that any place, matter or thing is a source of danger to employees or to the public he is to give notice in writing to the employer or owner directing him immediately or within a prescribed time limit to take such measures to guard the source of danger or to protect the safety and health of persons from the danger as he considers necessary. If the owner or employer fails to comply with the inspector's direction, the penalty set out in the Act is to apply.

Regulations applying to terminal grain elevators, first issued in 1946, were substantially amended in 1957. The particular hazard of such elevators is dust explosion, and to minimize the hazard the regulations lay down requirements in respect to structural design, ventilation, equipment, grain dryers, dust control systems, electrical equipment, fire protection and other matters. The 1957 amendments made changes with respect to a number of these provisions.

Manitoba

In 1957, the Manitoba Factories Act was repealed and re-enacted as Part IV of the Employment Standards Act, which also consolidated the legislation of the province dealing with hours of work and minimum wages.

The requirements upon factory employers were not fundamentally changed, except that stricter control was imposed upon the cleaning or servicing of machinery in motion. It may now only be done with the Minister's written authorization, which may include recommendations as to the safest method of doing the cleaning or servicing. As to premises, basement factories are prohibited except with the written authorization of the Minister. The permission may be conditional upon installation of a specified standard of lighting and ventilation.

Alberta

In 1951, the administration of the Factories Act was transferred from the Department of Public Works to the Department of Industries and Labour (now the Department of Labour). The Act has not since been amended, but in 1954, as may be done by proclamation, several types of machinery and equipment, operated outside a factory, were brought under the Act. These were cranes and hoists, inclined carriage lifts, gravel-crushing and handling machinery, ditching and pipe-wrapping machinery, escalators and moving stairs, pipe lines, seismograph equipment and oil and gas well servicing rigs.

Regulations issued in 1953 required the standards of the CSA *Safety Code for the Woodworking Industry* (mentioned above under Quebec) to be followed by plants using woodworking machinery. The 1956 CSA code, *Canadian Standard Practice of Industrial Lighting,* and the CSA *Code for the Guarding of Punch Presses at Point of Operation* were also adopted as required standards in 1957. In 1959, the revised CSA *Code of Practice for Window Cleaning* was adopted.

The *Code for the Guarding of Punch Presses* covers most types of presses used for punching or stamping material or for similar operations. Among other general safety requirements, the Code specifies that one or more means of safeguarding the press at point of operation must be provided and used on every power press, depending on the method of feeding used. The Code also sets out specifications for the construction and design of the types of guards used in various press operations.

The *Code of Practice for Window Cleaning,* first issued in 1949 and revised in 1959, applies to window cleaning operations performed on the outside of public or industrial buildings more than one storey high, or in which the sills of windows are located more than 10 feet above grade or adjoining flat roof. All window cleaning equipment used in Alberta in connection with premises under the Act must be constructed in accordance with the requirements of the Code. Also, window cleaners must be provided with specified safety equipment.

The regulations dealing with machinery and equipment in grain elevators, first issued in 1931, were re-issued in 1953, and were again revised in 1957 and in 1960. The effect of the changes is to introduce specific requirements with respect to the construction and maintenance of manlifts and employees' belt lifts and to require plans and specifications of employees' belt lifts to be submitted to the Chief Factory Inspector for approval before installation is commenced.

British Columbia

The British Columbia Factories Act was substantially revised in 1951. A number of provisions which applied specifically to women and girls were removed. Provisions

dealing with employment of children were deleted as being a matter dealt with by the Control of Employment of Children Act. The fire prevention and protection provisions were also removed because of the services available under the Fire Marshal Act. One of the major duties of the factory inspection staff is the administration of the elevator regulations under the Act involving inspection of all passenger and freight elevators in the province, which will be dealt with below.

Elevators and Lifts Legislation

In 1950, all provinces except Newfoundland and Prince Edward Island had legislation laying down safety requirements for elevators, hoists and other lifting devices and providing for inspection, although the provisions varied in scope.

Two provinces, Manitoba and Saskatchewan, had special statutes providing for provincial control of almost all types of elevators and hoists. Factory legislation in the other six provinces laid down safety standards for lifting devices and provided for inspection. Municipal Acts in some provinces also authorized municipalities to pass by-laws regulating elevators and some municipalities had exercised their authority.

The first province to enact special legislation for the regulation of elevators and hoists was Manitoba. In 1916 it passed the Passenger and Freight Elevator Act, which provided for regular inspection of elevators, examinations for elevator inspectors and for the licensing of elevators and operators. It was replaced in 1919 by the Elevator and Hoist Act, which, among other changes, provided for the establishment of an Elevator and Hoist Board with authority to adopt rules and regulations pertaining to the safety of elevators and hoists, subject to the approval of the Lieutenant-Governor in Council. With some amendments this Act is still in force today, one change being that in 1952 the regulation-making power was given to the Lieutenant-Governor in Council, with the Board being retained as an advisory body.

The Manitoba Elevator and Hoist Act applies to lifting devices in any kind of premises and provides for a considerable degree of provincial control. Before new elevators, escalators or other hoisting apparatus are installed or extensive alterations made, plans must be submitted to the Department of Labour for approval. New installations must be constructed in accordance with the standards set out in the regulations and must be inspected before they are put into operation and periodically thereafter, a rule which also applies to elevators which have had extensive alterations. The regulations also provide for the licensing of elevators, prescribe examinations for operators' licences, set a minimum age of 18 for operators of power-driven elevators, lay down operating rules, and require the reporting of accidents.

In 1942 Saskatchewan followed Manitoba's example and passed special legislation, the Elevator and Hoist Act, which provided for provincial control over elevators and hoists and at the same time repealed the sections of the Factories Act dealing with these lifting devices. This Act, which was originally administered by the Department of Public Works and after 1944 by the Department of Labour, required elevator owners to be licensed, fixed a minimum age of 18 for elevator operators, provided for inspection and for the adoption of the CSA *Safety Code for Passenger and Freight Elevators*. In 1949 this Act was replaced by the Passenger and Freight Elevator Act.

The Saskatchewan Act and regulations provide for periodic inspection of all passenger and freight elevators in the province; for annual licensing of elevators, elevator contractors and operators of all passenger elevators not operating under fully automatic control; and require that plans and specifications of new installations must be submitted to the Department of Labour for prior approval and registration. All passenger and freight elevators are inspected twice annually to ensure compliance with the construction, installation, operation and maintenance standards set out in the regulations.

In British Columbia, provincial control of elevators was provided for in the Factories Act. All elevators, regardless of location, had been subject to inspection by factory inspectors since 1919, and when the Act was amended in 1951 passenger and freight elevators, escalators and dumbwaiters were specifically included in the definition of "factory". In addition to the provision for inspection in the Act, regulations issued in 1935 governing the installation, operation and maintenance of freight and passenger elevators, dumbwaiters and moving stairways constitute a comprehensive safety code for these types of lifting devices. Operators of passenger elevators must be at least 18 years of age and must pass an examination set by an inspector in order to qualify for a licence.

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The Alberta Factories Act also provided for the regulation and inspection of elevators and in 1938 the CSA *Safety Code for Passenger and Freight Elevators* was adopted as regulations under the Act. The regulations would apply to nearly all, if not all, elevators in the province, since the Act covered all factories and also shops, hotels and restaurants except in places with a population under 5,000.

In Ontario, inspection of elevators and hoists in factories, shops, restaurants and office buildings was carried on by factory inspectors under authority of the Factory, Shop and Office Building Act, which also laid down standards for the construction and operation of elevators and hoists. In addition, the Municipal Act permitted municipalities to pass by-laws regulating passenger elevators but few had exercised this authority, a notable exception being Toronto.

In Quebec, elevators in industrial and commercial establishments were subject to regulation and inspection under the Industrial and Commercial Establishments Act, and elevators in public buildings were regulated under the Public Building Safety Act.

The factory Acts of New Brunswick and Nova Scotia also provided for inspection of elevators but provincial control was not as extensive as in British Columbia because of the limited coverage of the legislation. In Nova Scotia, only elevators in factories came within the scope of the Factories Act. In New Brunswick, where the factory legislation had a wider application, elevators in hotels, restaurants, stores, amusement places and office buildings as well as those in factories were subject to inspection.

In the decade between 1950 and 1960, the most important development in the field of elevator safety was the enactment of special legislation by three provinces, Ontario, Nova Scotia and New Brunswick. Ontario was the first to follow the example of Manitoba and Saskatchewan, passing the Elevators and Lifts Act in 1953. The Act, which went into force June 17, 1954, provided for provincial control over licensing and inspection of elevators and lifts. Similar legislation was adopted in Nova Scotia in 1956 and took effect January 1, 1958. In 1960, New Brunswick passed the Elevators and Lifts Act, to be brought into force by proclamation, at which time the sections of the Factory Act dealing with elevator safety will be repealed.

During this period also, several provinces adopted the CSA *Safety Code for Passenger and Freight Elevators*. Prior to 1950, the Code had been used as a guide for inspectors in a number of jurisdictions but only two provinces, Alberta and Saskatchewan, had adopted it in full. In 1953, Quebec issued new regulations under the Industrial and Commercial Establishments Act and the Public Building Safety Act which embodied the provisions of the Code. The elevators and lifts Acts enacted in Ontario and Nova Scotia specifically provided that inspectors were to apply the Code when inspecting new elevators and hoists. In 1960, Alberta, which had been the first province to adopt the earlier version, adopted the second edition as regulations under the Factories Act, effective January 1, 1961. New regulations under the Saskatchewan Passenger and Freight Elevator Act, which went into force January 1, 1961, also adopted the latest edition of the Code.

Another new trend was the extension of the legislation to certain types of lifting devices not previously covered. In 1950, in British Columbia, the regulations governing elevators and lifts were amended by the addition of new sections setting out rules for the construction and safe operation of moving stairways and power dumbwaiters. In 1954 Alberta issued a proclamation declaring cranes, hoists, inclined carriage lifts, escalators and moving stairs as factories, thereby providing for regulation and control of such lifting devices. In 1959, aerial tramways, chair lifts, ski tows, rope tows and inclined passenger lifts were brought within the scope of the Alberta Factories Act and regulations were issued setting out safety rules for these types of lifting devices. Regulations governing the construction and operation of aerial tramways (defined to include ski tows and rope tows) were also issued in British Columbia during this 10-year period.

New Elevator Acts

The purpose of the legislation enacted in Ontario, Nova Scotia and New Brunswick during this decade was to safeguard operators and other employees in establishments where lifting devices are installed, as well as the general public, and, in the case of freight elevators, to protect workers handling industrial materials in all types of industry.

To carry out this intent, the Acts provided for control by the Department of Labour at several points. No new installation may be commenced or any major alterations undertaken without the approval of the Department of Labour. In Ontario and Nova Scotia, no elevator or lift may be operated unless it is licensed, and once the New Brunswick Act comes into force, no person may operate an elevating device

unless he is the holder of a valid certificate of inspection. The three Acts provide that every elevator and lift must be inspected at least once annually, the Ontario and Nova Scotia legislation adding a proviso that the inspections must be carried out by persons holding a certificate of competency. The Nova Scotia and Ontario Acts also provided for the licensing of elevator contractors. Provision was also made in the Ontario legislation for the licensing of elevator operators. All three Acts require the reporting of accidents and authorize the Chief Inspector to investigate such occurrences.

Coverage

The coverage of the three Acts is very broad. All elevators, dumbwaiters, escalators, manlifts and incline lifts (defined to include ski lifts and ski tows) are subject to the legislation, except elevating devices within the scope of provincial mining Acts; feeding machines or belts or similar types of freight conveyors; freight ramps or platforms rising five feet or less; lubrication hoists or similar mechanisms; piling or stacking machines used within one storey; and temporary construction hoists. Elevators and lifts or other types of lifting devices used in private dwellings are exempted in Ontario and Nova Scotia unless the owner makes application to come under the Act.

When passed, the Ontario legislation also excluded passenger elevators in Toronto and freight elevators in municipally owned buildings in Toronto because the municipal inspection service was considered adequate, but a 1960 amendment to the Act brought these elevators under provincial control, effective January 1, 1961. Other classes of elevators may be exempted by regulation and in Ontario and Nova Scotia elevating devices installed in or around barns and used exclusively for agricultural purposes, and certain types of small dumbwaiters have been exempted by this method.

Inspectors

All of these Acts provide for the appointment of a Chief Elevator Inspector and an inspection staff. Inspectors are prohibited from having any direct or indirect interest in the manufacture, sale, installation or maintenance of elevator or lifts, and in Ontario and Nova Scotia are required to hold certificates of competency.

Regulations currently in effect in Ontario provide that an applicant for a certificate of competency must be at least 25 years of age; must obtain at least 60 per cent on the prescribed examinations, and must be able to prove that he is a qualified engineer or has had adequate training and experience in the design, construction, maintenance or inspection of elevating devices. There is no minimum age requirement in the Nova Scotia legislation nor is any specific educational standard set but, as in Ontario, the regulations stipulate that an applicant must be able to show that his training and experience are sufficient to make him competent to discharge his duties capably.

In Ontario and Nova Scotia, a certificate of competency may be issued to a representative of an insurance company provided he has the same qualifications as a government inspector. In addition, the insurer must file with the Minister a letter stating that the applicant has been employed to make inspections and certifying as to his integrity and ability and recommending that he be granted a certificate of competency.

In both Ontario and Nova Scotia, a certificate of competency may be cancelled or suspended if the holder is found to be untrustworthy or has been guilty of wilful negligence or falsification of reports. In addition, the regulations state that a government inspector may have his certificate suspended or cancelled if he is found to have any direct or indirect interest in the manufacture, sale, installation or maintenance of elevating devices.

As previously indicated, the Ontario, Nova Scotia and New Brunswick Acts state that every elevating device must be inspected at least once annually, the New Brunswick legislation further providing that the Chief Inspector may order additional inspections if he considers it advisable for reasons of safety.

In Ontario and Nova Scotia, if the inspection has been made by an insurance company inspector, the Chief Inspector may at any time require a further inspection by a government inspector. A copy of the report of each annual inspection made by the insurer must be filed with the Chief Inspector within 30 days unless the representative finds an unsafe condition, in which case the insurer must forward a copy of the inspection report within 24 hours. In Ontario, an insurer who cancels the insurance on an elevator or lift or rejects an application for insurance must notify the Chief Inspector immediately, giving the reasons for his action. The same rule applies in Nova Scotia if insurance is cancelled or rejected by reason of a defect known to the insurer.

In carrying out their duties, inspectors in Ontario and Nova Scotia are expressly required by the Act to apply to new installations of elevators, dumbwaiters and escalators the rules contained in the 1951 edition

of the CSA *Safety Code for Passenger and Freight Elevators*. Such parts of the Code as the regulations require must be used during inspection of major alterations of elevators, dumbwaiters or escalators and of new installations or major alterations of incline lifts.

Under the three Acts, an inspector has the right to enter any premises where he has reason to believe that an elevator or lift is being installed or operated and to require the owner to comply with the Act or regulations within a specified time. In Ontario, however, an aggrieved person has 10 days in which to make a written appeal to the Minister, who may affirm, vary or cancel the inspector's directive.

Licensing of Elevating Devices

In Ontario and Nova Scotia, a licence is required for the operation of every elevator, dumbwaiter, escalator, manlift or incline lift covered by the legislation. Licences are granted by the Chief Inspector and are valid for one year. The licence must designate the elevator or lift for which it is issued and state its maximum capacity. An elevator licence must be posted in the elevator car. Any other licence is to be kept in a conspicuous position on or adjacent to the lift for which it is issued.

A licence may be transferred upon application and payment of the prescribed fee. In both provinces, however, the regulations stipulate that the Chief Inspector may not transfer a licence while it is suspended or an unsafe condition exists or if the applicant owes fees or other expenses for which he is liable under the legislation.

The Chief Inspector may suspend a licence if the owner of the elevating device fails to comply with a notice or order of an inspector or if the licensee is more than 14 days in arrears in paying any fee or expenses for which he is liable under the Act or regulations. A licence may also be suspended if a major alteration has been commenced, or if the Chief Inspector believes that the elevator or lift is being operated contrary to the Act or regulations or that the insurer cancelled or rejected insurance because of non-compliance with the legislation.

When a licence is suspended, the Chief Inspector must send the licensee a notice giving the effective date and the reasons for the suspension and enclosing a copy of the sections of the regulations setting out conditions under which a suspended licence may be reinstated. The Chief Inspector may discontinue the suspension on written order whenever he is satisfied that conditions have been remedied.

After the New Brunswick Act comes into force, an owner may not operate an elevating device without a certificate of inspection signed by the Chief Inspector. The form of the certificates and the conditions under which they will be issued will be prescribed by regulation.

Registration of Contractors

As well as requiring the licensing of elevating devices, the Ontario and Nova Scotia Elevators and Lifts Acts authorize the Lieutenant-Governor in Council to issue regulations providing for annual registration of contractors. Regulations issued in both provinces state that no person may engage in the business of constructing, installing, altering, repairing, servicing or testing elevating devices without being registered with the Chief Inspector.

Under the Ontario regulations, the Minister has authority to suspend a contractor's registration for a violation of the legislation or for allowing an elevator under his control to be used while it is in an unsafe condition or is overloaded. A registration may also be suspended if the contractor is guilty of negligence or incompetence, if he knowingly permits a subcontractor to be so negligent as to cause a hazard to persons or freight, or if he performs any work or allows a subcontractor to work while his ability is impaired by the use of alcohol or drugs. The same rules apply in Nova Scotia, except that in that province the authority to suspend or cancel a contractor's registration is given to the Chief Inspector rather than to the Minister.

Licensing of Operators

Still another form of control in Ontario is the provision for the licensing of elevator operators. All elevator attendants must be licensed except operators of automatic elevators or incline lifts which meet the requirements set out in the regulations. To qualify for a licence a person must be at least 18 years of age and have had sufficient experience under the supervision of a licensed attendant to appreciate all the dangers connected with elevator operation and to operate the elevator safely.

Plans and Specifications

Both the Ontario and Nova Scotia Acts expressly state that drawings and specifications of all new installations or major alterations must be approved before work is begun. In Ontario, drawings and specifications giving detailed information as to the size, composition and arrangement of the proposed new installation or major alteration are examined by an engineer of the Department. In Nova Scotia, plans and

specifications must be approved by the Chief Inspector. The new Brunswick Act lays down no specific requirement but leaves the matter to be dealt with by regulation.

Reporting of Accidents

Similar reporting requirements are laid down in the three Acts. If an accident occurs which causes injury to any person, if the emergency supporting devices engage, or if an elevator, dumbwaiter, escalator, manlift or incline lift falls freely, the owner must notify the Chief Inspector in writing within 24 hours. If the accident results in death or in injury which may cause death, the owner must notify the Chief Inspector by telephone or telegraph immediately, and no person may disturb any wreckage or article connected with the accident, except to save life or relieve suffering, without the permission of an inspector. On receipt of notice, the Chief Inspector must initiate an investigation to determine the cause of the accident or occurrence.

Offences

All three Acts forbid an owner to operate an elevator or lift unless it complies with the Act and regulations. No person may operate an elevating device if its load exceeds the maximum capacity as designated in the licence, or in Ontario and Nova Scotia if he has reason to believe that it is otherwise unsafe.

Penalties are provided for breaches of the legislation. Each additional day on which a violation is continued is deemed to be a separate offence.

Regulation of Other Lifting Devices

As has been noted, some types of lifting devices not previously regulated were brought under provincial control during this period. In 1950, British Columbia issued safety rules for moving stairways and power dumbwaiters that require, among other provisions, the installation of guards and safety devices and provide for strict tests either in the manufacturer's plant or on installation.

The regulations governing inclined passenger lifts issued by Alberta in 1959 follow the same pattern as other legislation adopted during this period and provide for prior approval of plans and regular inspections.

Ski Tows, Aerial Tramways

As has been indicated, a number of provinces where skiing is becoming an increasingly popular sport made provision for the regulation and inspection of ski tows and similar types of aerial tramways during this period.

Special regulations were issued in British Columbia and Alberta. In Ontario and Nova Scotia, provision was made for the licensing and inspection of ski tows and rope tows under the new elevators and lifts Acts and similar provisions will come into effect in New Brunswick when the Act is proclaimed.

Although no special regulations have been issued, ski tow installations have been subject to inspection by Department of Labour inspectors in Quebec for some time, being considered to be within the scope of the Public Building Safety Act. It has been the practice to make inspections of installations shortly after the first snowfall and once again at the peak of the season.

The first province to adopt special regulations for ski tows and other types of aerial tramways was British Columbia. In 1950, the Chief Inspector of the Department of Railways made a tour of the larger chairlift installations in British Columbia, Alberta and northwestern United States and issued a report on his findings. As a result, in 1952, regulations were issued under the Railway Act that specified that all construction had to be under the supervision of a qualified engineer and provided for annual inspections. These regulations, reissued in 1959, now govern the location, construction and operation of aerial tramways, including chair lifts, cable cars and ski tows, and provide for control by the Department of Commercial Transport at several points.

Before any construction is commenced, the Minister of Commercial Transport must first approve the general location of any proposed aerial tramway. After the site has been approved, the tramway company must then submit a plan and profile of the proposed installation for the Minister's approval.

Appliances and appurtenances must also be approved. Detail plans and cross-sections for wooden or steel terminals and intermediate towers are to be sent to the Chief Inspector of the Department, who must also approve working drawings or blue prints of all mechanical details and appurtenances.

The regulations also provide for checking by inspectors during the manufacturing stage. A manufacturer's certificate, properly signed and notarized, must be sent to the Chief Inspector for every travelling or track wire rope on which passengers are to be carried or upon which depends the safety of any aerial tramway operation. Among other data, this certificate must show the specification of the material used, the tensile strength of the wire and the ultimate strength of the rope. Common black pipe may not be used as the main support of chairs unless it has

passed destruction and bend tests satisfactory to the Department and witnessed by an inspector.

All chairs are to be tested at the completion of manufacture. If necessary, the Chief Inspector or an inspector may order that rope clamps or chair attachments be stress-relieved and X-rayed after manufacture and an affidavit certifying that this has been done forwarded to the Department.

Specific requirements are also laid down for other attachments and equipment. All electrical wiring and apparatus must conform with the requirements of the regulations under the Electrical Energy Inspection Act of the province. All pressure vessels and air receivers used are to be constructed in accordance with the Department of Railways Boiler Code. Pressure vessels are to be inspected before being placed into service and annually thereafter.

In addition to the above provisions designed primarily for the protection of passengers, other provisions require adequate lighting in all establishments where workmen are employed, and the guarding of gearing, machinery and shafting.

Before an aerial tramway may be put into operation, it must be inspected. If found to be safe, a certificate will be issued which must be placed in a conspicuous position open to public view. Normally, a certificate of inspection is valid for 12 months but may be issued for a shorter period if the inspector thinks it advisable. If the inspector finds any defects, he may refuse to grant a certificate or he may order out of service any aerial tramway which he considers unfit or dangerous to operate. Where necessary, he may order any part removed and demand that drawings and specifications be submitted and tests made to satisfy himself that the installation is safe.

The regulations also provide for regular inspections by the owners. Every tramway company must appoint an experienced person to carry out repairs, inspections and tests. Daily inspections must be made of all parts and appurtenances pertaining to the safe operation of the tramway, with particular attention to the condition of the travelling rope and chair attachments. Chairs and platforms are to be inspected daily and brakes tested. Cable clamps are to be checked at specified intervals; also table clips and the foundations of towers and alignment of sheaves are to be inspected regularly. The maintenance foreman is required to keep a daily record of all operating conditions and repairs and to file a copy with the Department every month. It is also his duty to see that all repairs have been made before the tramway is returned to service and to inform the inspector of any defects in any tramway under his charge.

No licensing requirements are laid down for operators but attendants must be properly trained as to the handling of the public and operating the apparatus.

Penalties are provided for operating a tramway without a valid certificate of inspection, for failure to comply with an inspector's orders and for other breaches of the regulations.

The second province to issue special regulations for elevating devices used in ski resorts was Alberta. In 1959, a proclamation was issued extending the coverage of the Factories Act to aerial tramways, chair lifts, ski tows, rope tows and inclined passenger lifts, with the result that these elevating devices became subject to inspection by the Factories Branch. That same year, regulations were issued governing the construction, operation, maintenance and inspection of aerial tramways, chair lifts, ski tows and rope tows.

The requirements are similar to those in British Columbia. Plans must be submitted for approval; the parts and attachments must be of a specified standard; and installations must be inspected on completion of construction, before being put into operation, and annually thereafter. The operator is required to carry out certain daily inspections and the owner is responsible for weekly and annual inspections and for recording the results in a log book.

In Ontario, ski tows and ski lifts were brought under government regulation in 1953, the Elevators and Lifts Act of that year having included them in the same classification as an inclined lift. As a result, drawings and specifications of any proposed ski tow or ski lift must be submitted to the Elevators and Lifts Branch of the Department of Labour for approval before any work is begun. An installation may not be put into operation without an authorization from an inspector and owners are required to obtain an annual licence.

Nova Scotia and New Brunswick have adopted the same method of regulating ski lifts and ski tows as Ontario. When the Nova Scotia Elevators and Lifts Act was passed in 1956, it did not expressly cover these types of elevating devices but was amended in 1959 to include them in the definition of "incline lift". Similarly, when the New Brunswick Elevators and Lifts Act was enacted in 1960, ski lifts and ski tows

were included in the same classification as incline lifts and will be subject to regulation by the Department of Labour once the Act is proclaimed. The method of control is the same as that used in Ontario, the legislation providing for approval of plans and specifications, inspections and licensing of these elevating devices.

Boiler and Pressure Vessel, and Operating Engineers Legislation

The trend toward uniformity in legislation regulating the use of boilers and pressure vessels and the qualifications of operators continued during the fifties. Although boiler and pressure vessel inspectorates retained their identity, there was a continuation of the trend toward amalgamation with other inspectorates to form safety inspection divisions.

In all provinces, the work of the inspectorates increased substantially as a result of the marked rise in industrial development and in commercial, public and apartment building construction. Another factor responsible for this increased workload was the greater complexity of inspections, which resulted from the manufacture of plants of more complex design and higher pressure.

The sharp increase in the number of new plants during the period brought about a general shortage of qualified operating personnel, which, in turn, presented additional problems in connection with examination and certification.

Special legislation in connection with boilers and pressure vessels and operators has been in effect for many years. As early as 1891, Ontario passed "An Act respecting Stationary Engineers." This Act provided for a board which could "make rules and regulations for . . . the uniform inspection of steam plant, for the conduct of examinations . . .," as well as for other matters. The inspection provision, however, was subsequently repealed.

The first comprehensive legislation dealing with boiler inspection, the Manitoba Steam Boiler Inspection Act, was passed in 1894. By 1950, legislation respecting boilers and pressure vessels and operators had been enacted by the legislatures of all the provinces. In Prince Edward Island, however, the Steam Boiler Act, passed in 1948, continues to be inoperative and is not reviewed in this article.

During the fifties new or replacement Acts came into force in five provinces, there were a number of amendments to the Acts of several provinces, and all provinces made changes in their regulations. The scope of the legislation was extended.

In the decade, a number of administrative and organizational changes occurred in several provinces, including provision for the establishment of a new Board of Examiners in Newfoundland and new advisory bodies in Newfoundland, Alberta and British Columbia.

With respect to control procedures, new provisions were introduced in connection with the registration of plants. Inspection requirements were extended and made more stringent. In all provinces, the only way an applicant can now qualify for a boiler and pressure vessel operator's certificate is to pass the prescribed examination. Inspectors' qualifications were more specifically set out in the legislation than formerly and inspectors were given wider authority while at the same time appeal procedures were extended. The adoption of codes by additional provinces continued during the decade. Several provinces incorporated accident reporting provisions in their Acts.

New Acts

Acts replacing previous legislation came into force during the fifties in Manitoba, Ontario, Alberta and New Brunswick, and boiler legislation was adopted in Newfoundland.

The Newfoundland Boiler and Pressure Vessel Act, which had been passed in 1949, was not proclaimed until 1950. Modelled closely on a 1948 Saskatchewan Act, it laid down statutory requirements for boiler and pressure vessel inspection and for the examination and certification of stationary engineers and other operators. This Act was replaced in 1959 by a new statute which comes into force on proclamation.

In 1949, Manitoba passed the Operating Engineers and Firemen Act and the Steam and Pressure Plants Act, which were proclaimed in force in 1951 and 1953, respectively. These Acts replaced the former Steam Boiler and Pressure Plants Act.

Ontario completely revised its boiler and pressure vessel legislation when it enacted the Boiler and Pressure Vessel Act, 1951, repealing the previous Steam Boiler Act and Section 57 of the Factory, Shop and Office Building Act. Proclaimed in 1953, it brought the legislation into line with the latest improvements in practices in respect of the design of boilers and pressure vessels and their inspection during construction, installation and service. The new Act was amended in 1953 and again in 1960.

Ontario also passed the Operating Engineers Act, 1953, extensively revising and repealing the previous Operating Engineers Act. It was proclaimed in 1954.

In 1955, Alberta replaced the Steam Boilers Act by a new statute, the Boilers and Pressure Vessels Act, which, like the former legislation, deals with both boiler and pressure vessel inspection and operators.

In 1959, New Brunswick passed a new Stationary Engineers Act, replacing an Act of the same name. It deals with boilers and pressure vessels and operators as did the previous Act.

Coverage

The coverage of legislation relating to boilers and pressure vessels and operators was extended during the decade. The most important matters brought within the scope of the legislation were refrigeration plants with a capacity of more than three tons of refrigeration in 24 hours (Nova Scotia and British Columbia), and more than 15 tons (Manitoba). In Newfoundland, hoisting and traction plants were brought under the Act. In New Brunswick, Manitoba and British Columbia, certain hot water boilers were included.

Current coverage of the legislation includes all boilers and pressure vessels and operators subject to the legislative authority of the province, with certain specified exclusions. The more general exclusions from the legislation are the following:

1. Railway boilers or pressure vessels subject to inspection by the Board of Transport Commissioners (all provinces). Ontario, Alberta and British Columbia also exclude shipping containers subject to inspection by the Board.

2. Boilers or pressure vessels subject to the Canada Shipping Act (all provinces).

3. Pressure vessels and plants of less than a specified capacity (all provinces).

4. Boilers used only for heating purposes in residential buildings occupied by not more than four families (Newfoundland, New Brunswick, Ontario and Alberta). Nova Scotia excludes low-pressure steam or hot water boilers used for domestic purposes; Quebec, boilers in a dwelling house with not more than two floors and not more than eight apartments; Manitoba, boilers in residential buildings intended to house not more than two separate apartments; Saskatchewan, boilers in private residences; and British Columbia, boilers in a rooming house or an apartment house containing not more than three self-contained suites.

5. Boilers used in connection with open type hot water heating systems (Newfoundland, Ontario, Alberta and British Columbia).

6. Low pressure boilers having a heating surface of 30 square feet or less (Quebec, Ontario and Saskatchewan); certain other low-pressure plants are excluded by Newfoundland, Manitoba, Alberta and British Columbia.

7. Pressure vessels used exclusively for hydraulic purposes at atmospheric pressure (Nova Scotia, Ontario and British Columbia).

8. Pressure vessels having an internal diameter of 24 inches or less, used for storage of hot water for domestic purposes (Newfoundland, Alberta and British Columbia).

Administration

Boiler legislation continued to be administered by the Department of Labour in the six provinces in which that department had been the administering authority prior to 1950. In Newfoundland, the Act has been administered by the Department of Labour since its proclamation in 1950. The administration of the legislation in Alberta was transferred from the Department of Public Works to the Department of Industries and Labour (now Labour) in 1953. In British Columbia, the Department of Public Works continued to be responsible for administering the legislation.

In four provinces, boiler inspectorates are branches of larger inspection divisions. At the beginning of the decade, Manitoba already had a Mechanical and Engineering Section of which the boiler inspectorate was part. During the next ten years, Nova Scotia, Ontario and Saskatchewan adopted somewhat similar methods of administration. In Nova Scotia, the Boiler Inspection Section and the Operators Licence Section are now two of the four separate units that constitute the Mechanical Inspection Division. In Ontario, the Boiler Inspection Branch and the Board of Examiners of Operating Engineers now comprise two of the four units under the general supervision of the Director of Technical Services. In Saskatchewan, the Boiler and Pressure Vessel Branch is one of the four branches of the Safety Services Division.

For many years, five provinces (New Brunswick, Nova Scotia, Quebec, Ontario and Manitoba) have had a Board of Examiners whose main functions are the examination and certification of stationary engineers and other personnel responsible for the operation of boilers and pressure vessels.

In some provinces, the Board's responsibilities include the registration of plants. Newfoundland also made provision in its 1959 Act for a three-member Board of Examiners. Boards have not been established in Saskatchewan, Alberta and British Columbia, the responsibility resting with the Minister, chief inspector or the Department.

A new development during the decade was the provision made in the legislation of three provinces (Newfoundland, Alberta and British Columbia) for the establishment of advisory bodies to assist the Minister or Chief Inspector in connection with the administration of certain matters. In 1955, a provision in the Alberta Boilers and Pressure Vessels Act empowered the Lieutenant-Governor in Council to appoint a five-member Board of Advisors. At least two members of the Board must be holders of engineers' certificates issued under the Act; at least two members must be registered professional engineers who deal with equipment governed by the Act; and not more than one member shall be a full-time employee of the Department of Labour. The Board reports to and advises the Minister of Labour with respect to the application of the legislation, qualifications and examination of candidates, appeals, technical evidence relating to the cancellation or suspension of engineers' certificates and technical evidence concerning accidents, and other matters pertaining to the Act or its administration. The Board meets on request of the Minister, Deputy Minister or Chief Inspector.

In 1959, Newfoundland's new Act authorized the Lieutenant-Governor in Council to appoint a five-member Advisory Committee. Similar action was taken in British Columbia in 1960 when a regulation was issued giving the Minister of Public Works authority to appoint a nine-member Advisory Board. The functions of these two bodies are comparable to those of the Alberta Board, except that in British Columbia the Board advises the Chief Inspector.

Registration and Operation of Plants

Prior to 1950, registration of plants was required by six provinces. During the decade, this requirement was imposed by three more provinces (Newfoundland, New Brunswick and Saskatchewan). In British Columbia, an amendment to the Boiler and Pressure-vessel Act passed in 1955 provides that a certificate of inspection or an interim certificate serves as registration.

In all provinces, plants must be operated by a certified operator.

Inspection of Plants

In order to ensure that boilers and pressure vessels are structurally safe, inspectorates in all provinces make inspections in connection with boilers and pressure vessels at several stages, from the examination of specifications on which construction will be based, to annual inspection of operating equipment.

With respect to these inspections, all provinces require the manufacturer to submit to the Chief Inspector for approval and registration the design of boilers and pressure vessels before construction is begun. Likewise, all provinces require that shop inspections be carried out by departmental inspectors during manufacture.

On completion of construction, all provinces except Ontario require the manufacturer to submit an affidavit to the effect that fabrication of a boiler or pressure vessel is in accordance with an approved and registered design. Ontario requires the boiler to have certain identification markings.

Boilers and pressure vessels are also inspected during the installation stage. Installation inspections are required by legislation or are the practice in all provinces; in Quebec, this provision applies to boilers and pressure vessels in public buildings as well as to those in industrial and commercial establishments.

During the fifties, annual inspection requirements for boilers and pressure vessels became stricter. In Ontario, a provision in the Boilers and Pressure Vessels Act, 1951, introduced a new requirement making it obligatory for insurance companies to perform an annual inspection of insured boilers; previously, they made an annual report of boilers and pressure vessels insured. In 1951 also, an amendment to the Saskatchewan Boilers and Pressure Vessels Act provided that every boiler or pressure vessel is subject to inspection or registration annually. In 1959, New Brunswick's new Stationary Engineers Act provided for the annual inspection of insured boilers and pressure vessels; this provision previously applied to uninsured boilers and pressure vessels. All provinces now require the annual inspection of boilers and pressure vessels, but some provinces provide for less frequent inspection of certain types of less hazardous equipment.

Another type of inspection which inspectorates make to help ensure the structural safety of boilers and pressure vessels is concerned with welding procedures. Approval of welding procedures is now required by legislation, or is the practice followed in all provinces.

Qualification and Certification of Operators

In 1950, certification by examination was general for boiler and pressure vessel operators throughout Canada, but until 1953 Nova Scotia also granted certificates on the basis of service or experience. In all provinces, stationary engineers and other operators must now hold certificates, which are renewable annually, except in British Columbia, where they are granted for life, unless cancelled.

With respect to stationary engineers, provision was made during the decade for a fourth class engineer classification by Manitoba, New Brunswick and Alberta. All provinces now have first, second, third and fourth class stationary engineers classifications. In 1960, Ontario made two important changes in the qualifications required by engineering graduates who wish to qualify for a stationary engineer's certificate. The minimum qualifying experience for a person who holds a degree in engineering from a Canadian university, or other university approved by the Board of Examiners, was reduced to 36, 24, 12 and 3 months for a first, second, third and fourth class stationary engineer, respectively. The minimum age at which the holder of an engineering degree can obtain a first class stationary engineer's certificate was reduced from 28 to 25.

During the decade several provinces took steps to separate the refrigeration plant operators' licences and operating engineers' licences. In 1953, Newfoundland permitted a person with experience in a refrigeration plant but who lacked the qualifications for a stationary engineer's certificate to be examined for a certificate authorizing him to operate a refrigeration plant. In 1957, Ontario amended the Operating Engineers Act, 1953, establishing a new classification, refrigeration operator (class A). A person holding this class of certificate can operate a refrigeration plant of unlimited horsepower. Previously, only a first or second class stationary engineer was eligible. Quebec and Nova Scotia also have separate refrigeration operator classes for which the operator is not required to have stationary engineers' qualifications.

Prior to 1950 seven provinces required the testing of boiler and pressure vessel welders. This requirement was also imposed by Newfoundland in 1950, and by New Brunswick in 1956, so that in all provinces welding may now be done on a boiler or pressure vessel only by an operator whose qualifications have been established by welders' qualification tests. Re-testing of welders is required annually in Newfoundland, Quebec, Manitoba, Alberta and British Columbia, every 12 to 18 months in New Brunswick and Saskatchewan, and whenever an inspector may require in Nova Scotia and Ontario. In Ontario, welders must also be re-tested when changing employers.

During the fifties, Ontario incorporated into the Boilers and Pressure Vessels Act several amendments that provided for stricter control over welders' qualifications. The Act now specifically states that a welding operator must pass welding qualification tests as required by the Chief Inspector, be tested under an approved procedure and may not weld except under an approved procedure. Each welder must carry an identification card showing the name of his employer and the class and position of welding for which he is qualified. He must be re-tested and issued a new identification card before he can work for a new employer. An obligation is placed on both the employer and the welder to ensure that the welder performs only the class or position of welding for which he is qualified. In 1956, British Columbia amended its regulations to require the certification of welders on gas pipelines.

For many years before the past decade, certain provinces required a candidate for a boiler and pressure vessel operator's certificate to be a British subject. This provision, repealed by Ontario in 1953 and by Nova Scotia and Manitoba in 1956, is no longer in effect in any province.

Powers of Inspectors

Boiler inspectors already had a substantial measure of authority to deal with hazardous conditions in the legislation of most provinces prior to 1950. Their authority was clarified in some provinces during the decade since then. In all provinces, inspectors now have power to shut down a boiler or pressure vessel where dangerous conditions exist.

Ontario, where similar authority had been given to inspectors in the earlier legislation, incorporated a provision in the Boilers and Pressure Vessels Act, 1951, to the effect that if a boiler is unsafe or operated dangerously, an inspector, on instructions of the Chief Inspector, may cancel the certificate of inspection or certificate of approval. Another comprehensive provision in this Act specifies that an inspector may issue an order to an owner or person responsible on any matter pertaining to the safety of a boiler or pressure vessel. For non-compliance with an inspector's order the Chief Inspector may shut down the boiler or pressure vessel or cancel the certificate of inspection.

Similarly, the New Brunswick Stationary Engineers Act, passed in 1959, which sets out the powers of inspectors explicitly, includes authority to enable an inspector to prevent the operation of an unsafe boiler or pressure vessel.

The Newfoundland Boiler and Pressure Vessel Act, 1959, also gives inspectors authority to deal quickly with hazardous situations. The new Act will enable an inspector to seal an unsafe boiler or one operated dangerously, but he must immediately notify the Chief Inspector. Another new provision contained in the 1959 Act states that if the design of a boiler or pressure vessel has not been approved, or if it is operated without a certificate of inspection or approval, an inspector may, at the direction of the Chief Inspector, and with the approval of the Minister, shut it down and seal it. A person who is dissatisfied with a decision made by an inspector may appeal to the Minister. A similar provision for appeal to the Minister is contained in the legislation of four other provinces.

Adoption of Codes

The main code used in Canada with respect to boilers and pressure vessels is one developed by the Canadian Standards Association, known as "C.S.A. B51, Canadian Regulations for the Construction and Inspection of Boilers and Pressure Vessels." This Code, with modifications, was adopted by, or used as a standard by, several more provinces during the decade, and is now so used by all provinces.

Six editions of this Code have been issued, the first in 1939, and the sixth in 1960. Adopted in the Code itself as standards governing the design, fabrication, installation, testing and inspection of boilers, pressure vessels, piping and fittings are the latest editions of the following codes of the American Society of Mechanical Engineers: "Power Boilers," "Material Specifications," "Low Pressure Heating Boilers," "Unfired Pressure Vessels," "Qualifications for Welding," "Suggested Rules for the Care of Power Boilers," "Boilers of Locomotives," and "A.S.A. Code B31.1 for Pressure Piping."

Another code that is widely used in Canada is "C.S.A. B52, Mechanical Refrigeration Code." It has been adopted as regulations or is required to be used for reference in nearly all provinces.

Reporting of Accidents

Prior to 1950, the boiler Acts or regulations of all provinces, except Ontario, Newfoundland and New Brunswick, had provisions requiring the reporting of accidents. In Ontario, this requirement, already contained in the Factory, Shop and Office Building Act, was also incorporated in the Boilers and Pressure Vessels Act, 1951. Newfoundland's Act, which came into force in 1950, had a similar provision, as did the new Act in New Brunswick in 1959.

The boiler Acts or regulations of all provinces now stipulate that an explosion or accident causing death or serious injury to any person that occurs in connection with the operation of a boiler or pressure vessel must be reported by the owner, or person acting on his behalf, to the Chief Inspector (Minister of Labour in Manitoba) immediately after the explosion or accident, by telephone or telegraph (in Quebec, by written notice; in Alberta, a full report in writing, by registered mail, within 24 hours).

Under all Acts, excluding New Brunswick, there is a provision that no part of a boiler or pressure vessel may be removed or its position altered after an explosion or accident, except for the purpose of rescuing injured persons, without permission of an Inspector (the Chief Inspector in British Columbia).

In Saskatchewan, a fire involving a compressed gas plant or installation must be reported immediately by telephone or telegraph. In Nova Scotia, any accident which renders a boiler or pressure vessel inoperative must also be reported immediately, with detailed information, to the Chief Inspector.

Oil and Gas

Developments in Western Provinces

The rapid expansion of the petroleum and natural gas industry in the four western provinces in the last ten years has resulted in what amounts to a new system of regulation for the protection of persons employed at the point of primary production (the oil or gas well drilling plant), at the point of distribution (by pipeline or otherwise), and at the point of consumption (particularly in relation to the installation and operation of oil or gas burning equipment).

The Drilling Operation

Regulation of the drilling operation comes from two different kinds of legislation: from Acts having conservation, in its broad aspects, as their main purpose, and dealing with the drilling operation as one of a number of ways to carry out that purpose;

and from Acts having the primary aim of preventing injury to workmen and damage to property. In both types of legislation there have been substantial developments in the four western provinces in the past ten years.

Conservation Acts (administered by the department responsible for mineral resources) have been enacted or replaced in Alberta, British Columbia and Saskatchewan during the period, and in Manitoba, where the Mines Act governs gas and oil drilling and production (Part II of the Act dealing with oil and gas conservation), regulations under that Act have been frequently revised.

The present conservation legislation in Alberta is the Oil and Gas Conservation Act, passed in 1957, which repealed and replaced the Oil and Gas Resources Conservation Act, 1950. The purpose of this legislation, as stated in the Act, is to effect the conservation and prevent the waste of the oil and gas resources of the province, to secure the observance of safe and efficient practices in locating wells and in all operations for the production of oil and gas, and to afford each owner the opportunity of obtaining his just and equitable share of the production of any "pool" (the natural underground reservoir). The term "waste" has a special meaning, including production in excess of proper storage, transportation and marketing facilities, or market demand.

Under this Act, drilling and production regulations have been issued dealing, among many other matters, with the precautions that are to be taken to prevent disastrous fires and explosions, and particularly setting out requirements with respect to blow-out prevention equipment. "Blow-out" is the term used to describe a sudden violent escape of oil and gas from a drilling well when high pressure gas is encountered.

Similar rules governing the drilling, production and working of wells have been brought into effect or amended in the other western provinces. In British Columbia, the Petroleum and Natural Gas Act, 1954, repealed and replaced an Act of the same name first enacted in 1944; under the 1954 Act regulations similar to those in Alberta are in effect. In Saskatchewan, the Oil and Gas Conservation Act, passed in 1952, has a similar purpose, and regulations were issued in 1953, replaced in 1956, and again amended in 1958. The regulations under the Saskatchewan Act differ from those under the conservation Acts in Alberta and British Columbia in that they contain an additional safety section aimed at securing the safety of the workmen on the drilling project, including specific and detailed regulations dealing with the erecting of derricks, the drilling of gas and oil wells, and the cleaning, repairing, operation and maintenance of gas and oil well drilling rigs and equipment. In Alberta and British Columbia these matters are dealt with under other legislation described below. Regulations in Manitoba under the Mines Act, dating back to the 1940's, and governing, among other matters, "the exploration, development and production of oil and natural gas in Manitoba" were amended on eight occasions.

In Alberta, oil and gas well drilling plants are work places under the Factories Act, and special regulations applying to the safety problems encountered in drilling and with respect to the rigs and equipment have been in effect for a number of years. They were replaced and modified in 1953 and again in 1960. In recent years substantially the same rules have been imposed in regulations under the Workmen's Compensation Act, with the result that both factory inspectors and the inspectors of the Workmen's Compensation Board have authority to inspect and to ensure compliance with the requirements.

In British Columbia also, special safety regulations, the Well Drilling and Servicing Accident Prevention Regulations, were issued under the Workmen's Compensation Act, in 1956. The safety rules in both these and the Alberta regulations deal with the construction of the derrick, the guarding of moving parts of machinery, hoisting lines, and other matters. Rules are laid down with respect to practically all the equipment used in the drilling operation. Personal protective equipment, which the employer must have on the job for use by workmen, includes goggles, safety belts, gas masks and hard hats. A driller must have a certificate of competency in first aid approved by the Workmen's Compensation Board, and employers are required to provide and maintain a standard first aid kit and a carrying stretcher at each place of employment. Some of the same rules are included in the Saskatchewan conservation regulations mentioned above.

Pipelines

Provincial regulation of pipeline construction and operation in Alberta dates back to 1925. Since that time it has been necessary for any company wishing to construct and operate a pipeline for the transportation of gas or oil to obtain a permit from a provincial authority. The legislation was replaced twice in the 1950's, first in 1952 and then in 1958.

The Pipe Line Act, 1958, brought the supervision of pipelines under the Department of Mines and Minerals rather than the Board of Public Utility Commissioners, and provided for a Superintendent of Pipe Lines and an inspection service. No one may construct a pipeline without a permit, nor operate a pipeline until it has been tested to the satisfaction of the Superintendent. The Act requires that a sign be erected at each point where a pipeline enters or leaves the limits of a highway or road outside the boundaries of a city, town or village, and regulations issued under the Act in 1958 specify the symbols to be used on signs as well as on plans to denote valves, pumping stations, compressor stations and other installations along the pipeline.

Legislation is also in effect in the other western provinces requiring a permit from a provincial authority to construct or operate a pipeline and specifying safeguards to be observed in its construction and operation.

The present legislation in British Columbia is the Pipelines Act passed in 1955 and administered by the Minister of Commercial Transport. The Act gives the Minister authority to make orders and regulations providing for the protection of property and the safety of the public and of the company's employees in the operation of a pipeline. Comprehensive oil and gas pipeline regulations are in effect under this Act.

These regulations require that all unfired pressure vessels used in connection with the operation of a pipeline are to be constructed, installed and equipped in accordance with A.S.M.E. Code Section VIII 1956 and are to be inspected annually by an inspecting engineer of the Department. The ASA Code B31.1.8, 1955 is adopted as the standard governing the design, fabrication, installation, testing and inspection of gas or oil pipelines and for the installation and operation of gas compressor stations. Operation and maintenance procedures on gas pipelines must also be in accordance with the ASA Code. (If the codes mentioned above are amended or revised, the code as revised becomes the required standard if the Minister approves it.) Welding operators engaged in shop or field welding on pipelines are to be currently certified pipeline welders under the British Columbia Boiler and Pressure-vessel Act. Any accident that results in serious injury or death must be reported immediately to the Deputy Minister.

In Saskatchewan, the Pipe Lines Act, 1954, administered by the Minister of Mineral Resources, authorizes regulations "prescribing measures of safety for the protection of life and property during and after the construction or installation of a pipeline and during the operation thereof." Regulations issued under this authority in 1955 provide that all pipelines are subject to inspection by the Department during construction or operation and that a representative of the Department is to be present when the final fluid or pressure test is run. All standards of construction and operation are to be in accordance with standards prescribed by the provincial Department of Labour, or where no provincial standards are available, in accordance with the standards of the American Society for Testing Materials. The operator is required to have a gas pipeline inspected every six-month period for leaks of gas and faulty lines and to report the inspection to the Department.

Pipelines in Manitoba are regulated under two Acts, the Pipe Line Act, applying to oil pipelines and administered by the Minister of Mines and Natural Resources, and the Gas Pipe Line Act, administered by the Minister of Public Utilities and applying to gas distribution systems in any municipality as well as to other gas pipelines. There is authority in the Pipe Line Act to prescribe measures of safety for the protection of life and property during and after the construction, installation, or operation of an oil pipeline but no regulations have been issued. With respect to gas pipelines, regulations are in effect adopting the American Standard Code for Gas Transmission and Distribution Piping Systems, (B.31.8. 1958) as the standard applicable to construction, marking, inspection, and operation of a pipeline.

Gas and Oil Burning Equipment

Design, Installation and Operation

During the past ten years the four western provinces adopted new measures to ensure the safe use of gas and soil as fuels.

There were regulations dealing with different aspects of the matter in effect before 1950. For example, regulations issued in Alberta in 1938 by the Board of Public Utility Commissioners required a gas fitter to examine gas appliances before installation to see that they met certain standards; in Manitoba, regulations under the Factories Act and the Fires Prevention Act provided that only persons who had passed an examination and received a licence were permitted to install or service oil burning equipment; and there were other provisions.

The new approach in the 1950's was to deal within the scope of one Act with design of equipment, the methods of installation, and the competence and reliability of the person making the installation or servicing

the equipment, and to make one Department responsible for the administration of it: the Department of Labour in Manitoba, Saskatchewan and Alberta and the Department of Public Works in British Columbia.

The first such Act was the Gas and Oil Burner Act passed in Manitoba in 1952 and brought into effect by proclamation on January 15, 1954. Acts with similar purposes but confined to the use of gas were passed in Saskatchewan in 1953, British Columbia in 1954, and Alberta in 1955.

Gas Burning Equipment and Gas Fitters

The four Acts passed between 1952 and 1955 inclusive have all been amended since passage and the brief description that follows is based on the legislation as it stood at the end of 1960. In brief, each Act provided, through a system of permits and licences, for government inspection and supervision to ensure that the equipment offered for sale to the consumer meets accepted standards, to prescribe methods of installation and to see to it that no one installs or services equipment unless he is competent to do so with due regard for the efficient and safe burning of the fuel.

Standards for equipment and installation were worked out through the facilities of the Canadian Standards Association, and the C.S.A. Code B149-1958, Installation Code for Gas Burning Appliances and Equipment, is adopted by reference as the minimum requirement in Manitoba and Alberta, and in Saskatchewan with certain modifications. The installation standards are spelled out in the regulations in British Columbia and equipment may be approved on the basis of testing by the British Columbia Research Council or other testing agency, and where not otherwise specified must conform to American Gas Association standards.

As early as the 1930's, in Alberta, supervision began to be exercised under the Tradesmen's Qualification Act to ensure the competence of tradesmen making gas installations. Now the gas protection Acts in effect in each of the four western provinces provide that only a person who holds a certificate under the Act as a gas fitter may install, repair or alter any gas installation or equipment. A gas fitter's certificate may be obtained only on the basis of formally conducted examinations, and to be eligible to try the examinations a person must have had qualifying experience working under a competent tradesman. An inspection staff is maintained to issue permits, inspect installations, examine candidates for gas fitters' certificates (usually with the assistance of an examining board), and generally for administering the Acts.

Oil Burners

Two of the provinces, where some regulation of oil burners and their installation and servicing had been in effect prior to 1950, revised their regulations. New requirements were laid down under the Fire Marshal Act in British Columbia in 1958, and under the new Gas and Oil Burner Act in Manitoba in 1957. The regulations under the Fire Prevention Act in Saskatchewan remained in effect.

Developments in Other Provinces

In Ontario, between 1954 and 1960, the Ontario Fuel Board Act provided authority for regulating the production, distribution and use of gas and oil. Requirements with respect to gas transmission and distribution were in effect under this Act, and the CSA Installation Codes for gas burning and oil burning appliances were adopted as standards. This legislation was replaced in 1960 by the Energy Act and the Ontario Energy Board Act.

Under the Energy Act, regulations may be made "regulating safety standards and requiring and providing for the keeping of safety records and the making of safety returns, statements or reports in the drilling for, production, manufacture, processing, refining, storage, transmission, distribution, measurement, carriage by pipeline and consumption of any hydrocarbons, or any class of them."

Regulations were made on December 28, 1960, dealing with production, distribution and consumption of gas and oil. They continue in effect the two CSA codes for installation of gas and oil burning appliances, require the licensing of contractors making installations, and provide that after July 1, 1961, it is a condition of the registration of a contractor that installation, repairing or servicing of a gas appliance in any building other than a one or two family dwelling must be conducted by a person who has been certified by the Minister of Energy Resources as a qualified gas fitter. The Canadian Gas Association is designated as an organization to test appliances to specifications approved by the Minister.

New legislation in Quebec in 1959 gave the Electricity and Gas Board authority to make regulations, subject to the approval of the Lieutenant-Governor in Council, dealing with the conveyance, possession, distribution and use of gas in the province. The Act prohibits the installation of any gas apparatus not conforming to the requirements of the regulations. Distributors are forbidden to supply gas to a consumer if it is to be used by means of defective or

unapproved apparatus or in a building where the piping presents a risk of accident. Contractors, journeymen and apprentices engaged in the work of installing or servicing heating systems have been required to hold licences under the Pipe Mechanics Act for many years.

In Newfoundland, to ensure the safe use of gas and oil, regulations issued in 1959 under the Fire Prevention Act, 1954, adopted as standards the two CSA installation codes for gas burning and oil burning appliances.

Interprovincial and International Pipelines

The National Energy Board Act passed by Parliament in 1959 provides authority for regulations to be made for the protection of property and the safety of the public and of employees working on the operation of a pipeline under the Act, that is, on an interprovincial or international pipeline.

Construction

The main developments in legislation aimed at safety in construction work were concerned with trench excavation safety. The special hazards of pipeline construction were dealt with in regulations in one province, Alberta.

Some provincial legislation aimed at safe working conditions for construction workers has been in effect in Canada for about half a century; Building Trades Protection Acts were enacted by Ontario in 1911, and by Manitoba and Saskatchewan in 1912. These Acts are still in effect. After the enactment, in the period following 1915, of workmen's compensation legislation, which gave rule-making authority to the Workmen's Compensation Board, as in British Columbia, Alberta and Saskatchewan, regulations issued by these Boards set out general safety rules for the construction industry. Work at construction sites is subject to regulations under the Industrial and Commercial Establishments Act in Quebec, and there is also a Scaffolding Inspection Act in that province, administered partly by municipalities and partly by the Department of Labour. Regulations for the protection of safety and health of employees may also be issued under the Ontario Department of Labour Act.

Trench Excavation

During the ten-year period, six provinces issued new or revised, or reissued, trench construction safety regulations.

Ontario passed the Trench Excavators Protection Act, 1954, and issued new trench construction safety regulations under this Act. Saskatchewan (under the Workmen's Compensation Act) and Manitoba (under the Building Trades Protection Act) incorporated trench construction provisions in their new general construction regulations; Quebec did likewise in a revision of existing general construction regulations under the Industrial and Commercial Establishments Act. British Columbia revised trench construction regulations already contained in the general accident prevention regulations under the Workmen's Compensation Act. In Alberta, trench construction regulations previously in effect under the Workmen's Compensation Act were continued.

The rules in the six provinces apply, with certain exceptions, to excavations four feet or more in depth (more than six feet in Manitoba) where the depth is at least equal to the width. In Ontario, administration is mainly in the hands of the municipalities with some assistance from provincial inspectors, who are responsible for inspection in territory without municipal organization. The Department of Labour is the administering authority in Quebec and Manitoba, and in Saskatchewan, Alberta and British Columbia it is the Workmen's Compensation Board.

In Quebec, Ontario and Manitoba, the owner of the land, the contractor or employer is required to notify the appropriate administrative authority of intention to excavate so that inspection may be carried out. In Manitoba, municipalities are required to submit weekly reports to the Department of building and excavation permits issued. In all six provinces an inspector may inspect a trench at any time. He may issue an order requiring specific safety measures to be undertaken and may suspend operations if unsafe conditions exist.

All the regulations require that trenches be adequately shored, and contain specifications as to the materials to be used and the way the shoring is to be constructed and removed. They all lay down rules with respect to ladders and means of escape, and with respect to objects near a trench that might fall into the trench or cause a cave-in.

Other provisions common to most of the regulations deal with barriers, fences and guards; dust control, and control of gases and fumes; operation of machinery and

equipment; protective hats; and the use of explosives. Other rules are included in some regulations: in Manitoba an adequate system of audible signals must be maintained and explained to every workman; in Quebec and Ontario no person may be allowed to work alone in a trench exceeding a certain depth; and a minimum age of 16 in Ontario and 18 in Quebec is required for employees engaged in trench excavation.

Pipeline Construction

In Alberta, regulations were issued in 1959 under the Workmen's Compensation Act for the protection of workmen engaged in construction of a pipeline. These regulations set out the precautions to be observed in all the operations connected with pipeline construction: the transporting of workmen and equipment, preparing the right of way, pipe stringing, ditching operations, pipe laying, lowering the pipe into the ditch, and back filling. They deal also with special operations such as river crossing, and with the testing of the pipeline on completion. Either an inspector of the Workmen's Compensation Board or an inspector of the Factories Branch of the Department of Labour may inspect for compliance with these regulations.

Occupational Health Hazards

Radioactive Substances

The increased industrial use of radioactive substances led to the issue of safety and health regulations under the federal Atomic Energy Control Act in 1960. They establish standards as to the maximum dose of radiation to which employees may be exposed, based on standards established by the International Commission on Radiological Protection. They provide for medical examination of any person whose regular occupation exposes him to ionizing radiation in excess of the prescribed limits, and for the checking of other procedures by inspectors. The regulations are administered by officers of the federal Department of National Health and Welfare and the Atomic Energy Control Board, but a provincial health department may be named as the health authority and a provincial inspector may be designated to act as an inspector under the regulations.

A number of measures have also been taken by provincial legislatures to be prepared to deal with the more widespread use of radioactive materials in industrial processes. Ontario amended the Department of Labour Act in 1957 to permit regulations to be made for the protection of the health and safety of persons who may be exposed to the effects of ionizing radiation, and Manitoba, when the Employment Standards Act was passed in the same year, included in it authority to make regulations governing industries that utilize radioactive substances. The Quebec Public Health Act was amended in 1960 to provide specific authority to regulate ionizing radiation in industrial establishments. The Nova Scotia Public Health Act was also amended in 1960 regarding radiation hazard control.

Silica Exposure, Industries Other Than Mining

The Silicosis Act, passed in Ontario in 1950 and made effective by regulations issued in 1952, was aimed at the control of the health hazards of exposure to silica dust in occupations other than mining. These may occur in foundries, potteries, or the monument industry. Medical examination of miners exposed to silica dust has been required by the legislation of a number of provinces for some time. The new legislation, which is administered by the provincial Department of Health, provides for clinics for periodic medical examination of employees who are exposed for 50 or more hours in a month to the inhalation of dust from materials containing silica. Such employees must have a health certificate issued under the Act.

Part 6—Apprenticeship and Tradesmen's Qualification

Because of a widely-held belief that insufficient numbers of young people were being trained to meet future requirements for skilled tradesmen, the decade between 1950 and 1960 was marked by efforts to stimulate a nation-wide interest in apprenticeship training and by new legislative provisions to permit greater flexibility in the operation of provincial Apprenticeship Acts and regulations.

The certification of tradesmen already established in their trade received increasing emphasis during the period. Provision was made for various classes of tradesmen who had mastered their trades without the advantages of a formal apprenticeship to obtain certificates as journeymen on the basis of their work experience by passing a prescribed examination. In some provinces it is compulsory for certain classes of tradesmen to hold certificates of qualification in order to work at their trade. During the decade compulsory certification was extended to additional trades.

Apprenticeship

The first national conference on apprenticeship, held in May 1952, resulted in the setting up of a national body for the promotion of apprenticeship, the Apprenticeship Training Advisory Committee.

Besides encouraging and promoting apprenticeship training, the Apprenticeship Training Advisory Committee has studied and considered ways and means of attaining uniform apprenticeship standards for the country as a whole. One of the projects that it endorsed was the preparation of a series of trade analyses, with a view to the development of a nationally recognized core of skills for each trade. These analyses, prepared through co-operative arrangements among the federal and provincial Departments of Labour, are used as a basis for training in the provinces.

For two trades, motor vehicle repair and electrical construction, interprovincial standards for the examination of graduating apprentices had been established by the end of 1960.* Apprentices who passed the common (interprovincial) examination given in eight provinces received the usual provincial certificate, to which was affixed an Inter-Provincial Standards Seal, attesting to a standard of competence that will be recognized by other provinces.

During the ten-year period Newfoundland enacted its first Apprenticeship Act (1951) and set up an organized apprenticeship training system. Three other provinces—Saskatchewan in 1950, British Columbia in 1955 and Nova Scotia in 1952 and 1958—replaced existing laws, inaugurating a revised and expanded program of apprenticeship training, and instituting a combined system of apprenticeship training and tradesmen's qualification.

The apprenticeship system in effect in eight provinces of Canada has been described in the following terms: "Apprenticeship is an organized procedure of on-the-job and school instruction and training extending over at least 4,000 hours, designed to impart the skills, experience and related knowledge of a designated skilled trade to learners who are at least 16 years of age and who are under agreement with an employer or responsible body representing the trade." This definition was adopted by the national conference on apprenticeship in 1952.

The Prince Edward Island Act passed in 1944 along the lines of other provincial Acts was not operative in the period under review.

The system of apprenticeship training that had been established in Quebec prior to 1950 was not substantially changed during the decade. In that province apprenticeship training is carried on under the Collective Agreement Act and the Apprenticeship Assistance Act. Legislation similar to the present Collective Agreement Act has been in force in Quebec since 1934, permitting certain terms of a collective agreement, on the application of the parties, to be extended by government decree to the industry as a whole or a defined part of it. Since 1937, terms relating to apprenticeship and the proportion of apprentices to skilled workers in a given undertaking

*The trade of plumbing was added in 1961, and examinations in carpentry and sheet metal are now on a trial basis for official use in 1962.

have been among the provisions that may be extended. The parity committee established by the parties to supervise and ensure the carrying out of a decree has, among its other duties, the supervision of the terms relating to apprenticeship. If certificates of competency of the employees subject to the decree are obligatory, it has the duty of conducting examinations for apprentices and skilled workmen.

Under the Apprenticeship Assistance Act, which dates back to 1945, municipalities may be recognized as apprenticeship centres and in such centres an apprenticeship commission may be incorporated to assist in the training of apprentices by giving courses or by arranging for courses to be given in vocational schools. Twenty-one municipalities have been recognized as apprenticeship centres and sixteen commissions have been incorporated. In 1960, apprenticeship commissions were training apprentices in one or more centres in the automobile trades, the barber-hairdresser trade, the building trades, shoe making and the printing trades. Apprentices are given basic training in the trade for periods up to 12 months before taking employment. The system does not involve the indenturing of the apprentice. Unlike the other provinces, Quebec does not receive financial assistance from the federal Government for apprenticeship training.

If an apprentice takes employment with an employer governed by a decree, the regulation of the conditions of apprenticeship may be very similar to the regulations set out in the rules for the trade under apprenticeship Acts in other provinces. In the decree governing the construction industry in Montreal, for example, the duties of the apprentice and the employer are set out and it is specified that the apprentice is to be registered at the Building Trades Apprenticeship Centre and is to submit annually at the Centre to a progress examination. Age limits for beginning apprenticeship are established (usually not under 16 or over 23 years of age, but the limits are varied for some trades); the ratio of apprentices to qualified tradesmen is established for each trade. The period of apprenticeship is also specified—four years for most trades; shorter periods for some. Wage rates for apprentices are also fixed at a percentage of the minimum rates payable to qualified tradesmen.

In the period under review the eight provinces with substantially similar programs made various modifications in their Acts and regulations with a view to making apprenticeship training available to greater numbers of young people and to making the system work more efficiently. Some of these changes are noted below.

In an effort to create interest in apprenticeship throughout the province of Manitoba—most registered apprentices previously were drawn from the Greater Winnipeg area—the Manitoba Act was amended in 1952, enabling the Lieutenant-Governor in Council to establish selected areas of the province as apprenticeship zones and to appoint a local apprenticeship committee for each zone.

In the revision of the Nova Scotia Act in 1952, and by a similar amendment to the Newfoundland Act in 1954, provision was made for the Act to be applied in a limited area of the province where apprenticeship could operate satisfactorily, if it was not thought practical to designate a trade for the whole province.

In the Nova Scotia Act, authority was given to the Minister of Labour to specify the part or parts of the province in which the Act would apply to a designated trade. By Order of the Minister, the Act has been declared to apply to the carpentry trade in five counties, to the trades of plumber and steamfitter in the County of Halifax, and to the motor vehicle repair trade in Halifax and Dartmouth. Under the former Act, trades were always designated for the whole province.

In Newfoundland, an order limiting the application of the Act or regulations to any specified area is made by the Lieutenant-Governor in Council on the recommendation of the Provincial Apprenticeship Board and with the approval of the Minister of Labour. Regulations in 1959 providing for the compulsory certification of workmen in the motor vehicle repair trade in Newfoundland were limited in their application to the Avalon Peninsula.

A 1952 provision in Nova Scotia making for a wider application of the Act authorized the Minister to approve a plant system of apprenticeship training in a trade or branch of a trade and to make the Act applicable to it.

Several provinces provided for a change in the traditional method of indenture between an apprentice and an employer, enabling a trade union, employers' organization or an apprenticeship committee to be substituted for the employer as the employing agency. In Saskatchewan, provision was made in 1954 for persons working in a trade to be indentured to the Director of Apprenticeship.

The Nova Scotia Act in 1952 authorized the Minister to allow an association or organization, whether or not incorporated

and whether or not engaged in carrying on a trade, to enter into an apprenticeship agreement. Previously, only incorporated organizations authorized by the Minister could do so, hence a trade union was precluded from entering into an apprenticeship contract. This amendment has permitted apprentices to be indentured to a local apprenticeship committee. The committee follows the apprentice through his period of training, regardless of the number of employers he may have during that time.

A 1955 amendment to the Newfoundland Act broadened the definition of "employer" to the same effect, including in the term a provincial, municipal or other public authority and any incorporated or unincorporated organization authorized by the Minister to enter into an apprenticeship contract.

The Saskatchewan amendment permitting persons working in a trade to be indentured to the Director, if the trade advisory board concerned approved, was designed to make it possible for tradesmen in small establishments, mainly in rural areas, to take advantage of training opportunities. Between 1956 and 1958 regulations governing eight trades provided that one person in any establishment who was not a journeyman and was regularly engaged in the trade might enter into an apprenticeship contract with the Director.

During the period most provinces added to the number of "designated" trades, i.e., those in which, subject to certain exceptions, apprenticeship is compulsory if a person eligible to be an apprentice wishes to be employed in the trade. Trades are not "designated" in New Brunswick but are declared appropriate for contracts of apprenticeship.

In Alberta, the new trades designated were refrigerator mechanic, welding, machinist, millwright, cook, lathing and heavy duty mechanic. The trade of gas-fitter, previously included with the trades of plumber and steamfitter, was designated as a separate trade.

Alberta is the only province that has designated the trade of cook. Manitoba includes it, however, in the schedule of trades that may be named as designated trades.

In British Columbia, the refrigeration trade and the trade of heavy duty mechanic were also designated, as well as bricklaying, steel fabrication including welding, barbering and watch repairing. The machinist trade was designated in both Manitoba and Nova Scotia. In Saskatchewan, pipefitting, including gasfitting, was designated. In New Brunswick, the trades of pipefitter, stationary engineer, switchboard operator and lineman and electric welding were declared appropriate for contracts of apprenticeship.

A new feature of the British Columbia Act passed in 1955 was that it provided for training in trades other than designated trades. The amendment recognized the fact that, although it might not be advisable to designate a trade because opportunities for training were not generally available, it might be desirable to permit a contract to be entered into in an individual case at the discretion of the Director and on the written application of the employer and prospective apprentice.

The promotion of training in trades not designated under the Act is also a part of the apprenticeship program of the Ontario Department of Labour. The Department has given considerable assistance to individual plants and industries in establishing an apprenticeship training system.

In most provinces a minimum age of 16 years is set for entering an apprenticeship contract but in British Columbia apprenticeship is open to persons over the age of 15.

In Ontario, a maximum age of 21 years is generally enforced. Most of the other provinces do not strictly apply age restrictions, and some have taken steps to eliminate or raise the maximum age limit for apprenticeship.

British Columbia was the first province to remove the upper age limit of 21 years. The British Columbia Act, amended in 1951, made apprenticeship training available to adults over 21 as well as to persons between 15 and 21.

Alberta has followed the same course in its trade regulations in recent years, removing the upper age limit of 21 for a number of trades, and setting no maximum age in the regulations issued for newly-designated trades. An upper age limit remains in four trades only. An apprentice bricklayer "preferably" should not be over the age of 24, an apprentice gasfitter or an apprentice plumber and steamfitter preferably not over 25. In the plastering trade, a worker up to the age of 24 may enroll as an apprentice, but preference is given to persons not over 21. Provision is made for exceptions from these age limits, however, at the discretion of the Provincial Apprenticeship Board, on the recommendation of the local advisory committee.

In Manitoba, by an amendment to the Act in 1960, the authority given to a trade advisory committee to make rules with respect to the upper age limit for

apprentices in the trade concerned was withdrawn. Instead, the trade advisory committees were authorized to make rules regarding the minimum educational qualifications of apprentices.

In most provinces the educational qualification required for apprenticeship is a Grade 8 education. In Alberta of late years a Grade 9 standing has been required and, with some exceptions, this is the usual standard required in that province.

In Manitoba, by a 1952 amendment, the Provincial Apprenticeship Board was authorized, on the recommendation of the trade advisory committee, to prescribe a special combined course of education and apprenticeship training for any person between 16 and 21 who is otherwise qualified to enter an apprenticeship contract but who lacks the necessary educational qualifications.

Rates of pay of apprentices, which are expressed as a rising scale of percentages of the prevailing journeyman's rate, were raised for some or all trades in most provinces. In British Columbia in 1958, after a public hearing, rates of pay of apprentices were increased 10 per cent, and now range from 35 per cent of the journeyman's wage in the first year to 85 per cent in the final year of apprenticeship, the increases varying with the term of apprenticeship. In some trades in some provinces apprentices' wages now increase at half-yearly rather than yearly intervals. In Alberta, increases in wage rates in most designated trades take effect after the successful completion of each yearly period of technical training. An amendment to the general regulations in Saskatchewan in 1956 laid down the requirement that apprentices in most of the designated trades must be paid at least the current minimum wage under the Minimum Wage Act during the first 1,000 hours (six months) of their apprenticeship or 40 per cent of journeymen's wages.

A 1953 amendment to the general regulations in Manitoba reduced from 2,000 to 1,800 the number of hours of employment and class instruction that an apprentice must complete each year. Ontario regulations covering a number of building trades stipulate that an apprentice must complete at least 1,280 hours of on-the-job training each year in addition to class instruction.

The term of apprenticeship set for each trade varies from two years—the minimum period set in several Acts—to five years. In Alberta, a shorter term (3 years instead of 4) was set for the welding trade in 1955 and for the trade of gasfitter in 1959. In 1959 the term for the trade of radio technician was lengthened from 3 to 4 years.

Changes were made in Alberta and Saskatchewan with regard to the permitted ratio of apprentices to journeymen.

In Alberta, a higher ratio of apprentices to journeymen was prescribed in the regulations for a number of designated trades. The most common ratio is now one apprentice for every two journeymen. In five trades (electrician, radio technician, refrigeration mechanic, welder and millwright) the ratio is 1:1.

In Saskatchewan in 1951, the ratio of apprentices to journeymen was made more uniform for the various trades. A ratio of 1:3 is now fixed for most designated trades.

In a 1954 amendment to the Saskatchewan Act, the Lieutenant-Governor in Council was empowered to set a province-wide ratio for a designated trade, in addition to the usual ratio for the establishment of each employer.

In 1956 a provincial quota was imposed for six designated trades. The regulations provided that the total number of registered apprentices in the electrical, carpentry, plumbing, motor vehicle mechanics repair and motor vehicle body repair trades was not to exceed one-third, and in the sheet metal trade one-half, of the total number of journeymen in the trade in the province. A quota was also set for the radio and TV electronics trade in 1957. In this trade the total number of apprentices may not exceed the total number of journeymen in the province.

Tradesmen's Qualification

Provision is made for the certification of tradesmen other than apprentices in certain designated trades in most provinces. With some exceptions, dealt with below under "Compulsory Certification," certification is voluntary, that is, a tradesman who wishes to become qualified as a journeyman may make application to the Department of Labour and, if on examination he is found competent and can prove that he has had the length of practical experience required, may be granted a certificate of qualification. The length of practical experience usually required for journeyman status is a period at least as long as the prescribed term of apprenticeship for the trade.

Stress is laid on the qualification of tradesmen because of the advantages to the public in improved standards of workmanship and to the tradesman himself in protecting him against unfair competition.

Voluntary Certification

In seven provinces the certification of tradesmen on a voluntary basis is provided for in apprenticeship legislation. New Brunswick has a separate Act, the Trades Examination Act, providing for the certification of tradesmen who wish to qualify for journeyman status.

In Alberta, certificates of qualification are usually issued without examination, if application is made within a specified time (mostly 180 days) after the date of publication of the regulations. After the expiration of the prescribed period, a candidate is required to qualify by examination. As in several other provinces, an applicant who fails to qualify for a certificate on the written examination may be given an appropriate standing and complete his training as an apprentice.

Between 1953 and 1960 provision was made in Alberta for the issuance of certificates of qualification to journeymen in nine designated trades—carpentry, painting and decorating, sheet metal, machinist, bricklayer, millwright, cooking, lathing and plastering. In cooking and lathing, certification is granted on the basis of three years' experience; in the other trades, four years' qualifying experience is required.

In Nova Scotia, the conditions to be fulfilled in order to obtain a certificate of qualification in the motor vehicle repair trade were set out in regulations in 1953, applying only in Halifax and Dartmouth. An applicant is required to be a Nova Scotia resident, to have worked as a mechanic in the trade for at least four years, and to be recommended by two persons qualified to vouch for his skill. Certificates have also been issued for some years in several other trades.

In Ontario, provision for the certification, by examination, of journeymen in a designated trade if they have had the same length of experience in the trade as the prescribed period of apprenticeship was made in revised general regulations in 1954.

In British Columbia, regulations were made in 1956 providing for the examination of competent workmen in the refrigeration trade and in the radio, television and electronics trades. To obtain a certificate of proficiency, a tradesman is required to qualify on examination and to submit proof that he has either served an apprenticeship or had at least 8,000 hours (4 years) experience in the trade.

In Saskatchewan, the same requirement—at least 8,000 hours experience—was laid down in 1957 for obtaining journeyman status in the radio and TV electronics trade.

In Manitoba, regulations providing for the certification of automobile mechanics and painters and decorators were amended during the period.

In New Brunswick, the Trades Examination Act enacted in 1949 providing for certification on a voluntary basis was amended in 1955 to add plumbing and pipefitting, and in 1958 to add the motor vehicle repair trade (mechanical), to the trades already covered by the Act: electrical and electric and gas welding. With the addition of the powderman's trade (blasting) and the deletion of welding in 1960, the Act now specifies five trades in which Boards of Examiners examine candidates for journeyman status.

A Trades Examination Branch was recently set up in the New Brunswick Department of Labour to administer trade certification and allied training.

Compulsory Certification

In Alberta, Saskatchewan, Newfoundland, Ontario and Quebec, certain classes of tradesmen are required to hold certificates of competency in order to work at their trade. In Nova Scotia, the Apprenticeship and Tradesmen's Qualifications Act, 1958, authorizes the adoption of a system of compulsory certification with respect to a designated trade, as did the earlier Tradesmen's Qualification Act, but to date this authority has not been exercised.

Alberta has a special statute, the Tradesmen's Qualification Act, enacted in 1936, providing for compulsory certification in designated trades and prohibiting employment without the required certificate. In Newfoundland, Ontario and Saskatchewan, compulsory certification of workmen in a designated trade is provided for in apprenticeship legislation. In Quebec, certificates of competency must be held by journeymen in some of the trades covered by decrees under the Collective Agreement Act.

In 1951 regulations were made in Saskatchewan requiring all persons engaged in barbering, beauty culture, motor vehicle mechanics repair, carpentry and plumbing in the cities and the towns of Estevan and Melville and a five-mile radius to hold a certificate of status as apprentice or journeyman. This requirement was extended to apply throughout the province with respect to barbering, beauty culture and motor vehicle mechanics repair in 1955, and with respect to carpentry in 1960 (effective from March 1, 1961); the provision restricting the compulsory certification of tradesmen to the cities and two largest towns was deleted. In 1958 compulsory certification was extended to two additional trades,

motor vehicle body repair and sheet metal work. In these trades and in plumbing, the holding of a certificate is required only in the cities and in the town of Melville.

In 1960 Newfoundland made it compulsory, subject to three exceptions, for tradesmen in the auto body and motor vehicle repair trade in the Avalon Peninsula to hold a valid certificate of qualification in the trade, and Ontario laid down the same requirement for the hairdressing trade. All persons in the hairdressing trade except registered apprentices or persons employed during a probationary period are required to hold a certificate. The only other trade in Ontario in which a current certificate of qualification is required is the motor vehicle repair trade, where the certificate has been compulsory since 1944. Employment in the trade is prohibited if this requirement is not complied with.

In 1954 the trade of radio technician (amended in 1956 to include TV) was designated under the Alberta Tradesmen's Qualification Act, making 11 trades in which a certificate of proficiency is required. Trades previously designated were auto body mechanic, electrician, internal combustion engine mechanic, motor vehicle mechanic, plumber, steamfitter, gasfitter, refrigerator mechanic, barbering and beauty culture.

In 1954 revised regulations covering nine trades were issued, setting out conditions for obtaining certificates of proficiency. With one exception, the qualifying experience required was one year more than had previously been required.

In all trades except barbering and beauty culture, a candidate for a certificate must have had four years qualifying experience. Three years experience was first required for the trade of radio technician but this requirement was changed to the general standard of four years in 1959. In barbering and beauty culture, one year's practical experience, rather than two years, as previously, is now set as the qualifying period. In all except these two trades, a candidate who fails to qualify on examination may register as an apprentice (since these trades are also designated under the Apprenticeship Act) and complete his training.

By a 1958 amendment to the regulations under the Alberta Electrical Protection Act, it was provided that the certificates of proficiency required in the electrical trade should henceforth be issued under the Electrical Protection Act instead of the Tradesmen's Qualification Act, and that after April 1, 1960, no person should be allowed to work as an electrician unless he held a certificate under the former Act. This requirement is somewhat similar to the practice in Quebec, Manitoba, Saskatchewan and British Columbia, where persons making electrical installations are required, under legislation in effect since before 1950 and dealing also with standards for the installations and equipment, to establish their competence before obtaining a licence. Similarly, new regulations in Alberta, effective from April 1, 1961, provided for the replacement of certificates of gasfitters issued under the Tradesmen's Qualification Act by certificates issued under the Gas Protection Act. (Licensing of gasfitters in other provinces under gas protection legislation has been dealt with under Part 5 of this series at p. 52).

Part 7—Labour Relations and Trade Union Legislation

The present system of labour relations legislation in Canada was a comparatively new venture ten years ago. Government intervention to assist in the settlement of disputes dates back to the beginning of this century, but it was not until the late 1930's that the concept of the obligation of an employer to recognize and bargain with a trade union supported by the majority of his employees was adopted as a principle in the legislation of some provinces, and it was not until the 1940's, during the war years, that the further step was taken of providing effective means for determining questions of representation, defining appropriate bargaining units, requiring negotiation between management and bargaining agents, and laying down the ground rules within which the collective bargaining relationship was to operate.

Federal jurisdiction was greatly extended during the war, with the result that management and labour became accustomed to a uniform labour code across the country. As a result of this experience, and also because of a deliberate effort of the federal authorities in 1947 and 1948 to work out legislation that might be acceptable both in the federal field of jurisdiction and in each of the provinces, the legislation adopted in the first post-war years had many principles and provisions in common. This article will describe the major changes which have been made in the 1950's. The legislation with which it deals is indicated in the accompanying table.

Coverage

The federal Industrial Relations and Disputes Investigation Act applies throughout Canada to the employers and employees in industries and enterprises under federal jurisdiction.

Each of the provincial labour relations Acts applies with few exceptions to the employers and employees in the province operating within the jurisdiction of the provincial legislature. In the period, the field of operations of the federal Act has been widened by several court decisions which have held that Parliament has exclusive authority in interprovincial and international road transport, pipe lines extending beyond the limits of a province, over stevedoring operations serving out-of-the-province shipping, and over uranium mining and the processing of nuclear material.

Industry and Occupational Exclusions

Several of the provincial Acts exclude certain industry or occupational groups. Domestic service and agriculture are excluded in Alberta, British Columbia, New Brunswick, Ontario and Quebec; and horticulture, hunting and trapping in British Columbia, New Brunswick and Ontario. No change has been made with respect to these exclusions, except that in Ontario in 1960 the Act was amended with respect to the exclusion of horticulture to make it clear that an employee of a municipality or a person employed in silvaculture is not excluded by reason of the fact that he may be engaged in horticulture work. It is only the employees of employers whose primary business is horticulture who are excluded.

In 1950 the federal Act and the Acts of all the provinces except British Columbia, Prince Edward Island and Saskatchewan excluded employees who are members of certain professions and employed in their professional capacity. The professions excluded are the medical, dental, architectural, engineering or legal professions (in Quebec, professions covered by the Bar Act, Notarial Code, Medical Act, Study of Anatomy Act, Homeopathists' Act, Pharmacy Act, Dental Act, Veterinary Surgeons' Act, Civil Engineers' Act, Land Surveyors' Act, Architects' Act, and Dispensing Opticians Act, and any person admitted to the study of one of these professions). When the British Columbia legislation was replaced in 1954, professional persons were excluded as in the other provinces. The only other change during the period was that in Manitoba in 1956 the dietetic profession was added to the list of excluded professions in the Manitoba Act.[1]

[1]Dietitians were excluded from the New Brunswick Act by a 1961 amendment, as were also nurses and teachers.

Managerial and Confidential Employees

Managerial employees and certain confidential employees are excluded in all the Acts. The federal Act, and the Acts of Alberta, British Columbia (since 1954), Manitoba, New Brunswick, Newfoundland and Nova Scotia, state that a manager or superintendent, or any other person who, in the opinion of the Board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations, is not an employee under the Act. The Ontario Act, as passed in 1950, stated that no person shall be deemed to be an employee who is a manager or superintendent or who exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations. The words "in the opinion of the Board" were added by a 1957 amendment, making it clear that, as in the federal Act and the Acts of the other provinces listed above, the decision as to what constitutes managerial or confidential functions rests with the Board.

The Crown and Crown Agencies

The federal Act and the Acts of all the provinces except Saskatchewan exclude Government employees, either in direct terms as in Section 55 of the federal Act, or by virtue of the rule of interpretation that if an Act does not specifically state that it binds the Crown, the Crown is not bound by it. The Saskatchewan Act specifically states (Section 2 (6)) that Her Majesty in right of Saskatchewan is bound by the Act.

In Quebec, the Labour Relations Act applies to public services and their employees, whether carried on by the Government or by commercial enterprises, subject to the modifications set out in the Public Services Employees Disputes Act.

The position with respect to companies, boards and commissions set up to carry out a government function varies somewhat in the different jurisdictions. The federal Act and the Acts of New Brunswick, Newfoundland, Nova Scotia, Manitoba and Quebec deal specifically with the position of such

Labour Relations Legislation in Canada, 1950-1960

Legislation in effect in 1950, with date of enactment	Amendments in period 1950-60, with citation in 1960
Canada: Industrial Relations and Disputes Investigation Act. 1948.	None. R.S.C. 1952, c. 152.
Alberta: Alberta Labour Act. 1947. Amended in 1948, 1950.	Amended in 1954. R.S.A. 1955, c. 167, amended in 1957, 1958, 1959, 1960.
British Columbia: Industrial Conciliation and Arbitration Act, 1947. Amended in 1948. Trade-unions Act, R.S.B.C. 1948, c. 342 (enacted 1902).	Replaced in 1954 by Labour Relations Act, 1954, c. 17. R.S.B.C. 1960, c. 205. Trade-union Act replaced in 1959. R.S.B.C. 1960, c. 384.
Manitoba: Labour Relations Act. 1948. Amended in 1950.	R.S.M. 1954, c. 132. Amended in 1956, 1957, 1958, 1959, 1960.
New Brunswick: Labour Relations Act. 1949.	R.S.N.B. 1952, c. 124. Amended in 1953, 1955, 1956, 1959, 1960.
Newfoundland: Labour Relations Act, 1950.	R.S.N. 1952, c. 258. Amended in 1959, 1960. Trade Union Act, 1960, c. 59.
Nova Scotia: Trade Union Act. 1947. Amended in 1948, 1949.	Amended in 1951, 1953. R.S.N.S. 1954, c. 295, amended in 1957.
Ontario: Labour Relations Act, 1950.	Amended in 1954, 1956, 1957, 1958, 1959, 1960. R.S.O. 1960, c. 202.
Prince Edward Island: Trade Union Act, 1945. Amended in 1948, 1949.	R.S.P.E.I. 1951, c. 164. Amended in 1953, 1956, 1957, 1958, 1959, 1960.
Quebec: Labour Relations Act. 1944 (R.S.Q. 1941, c. 162A) Amended in 1945, 1946. Quebec Trade Disputes Act, R.S.Q. 1941, c. 167 (enacted in 1901).	Amended in 1951, 1952, 1953, 1954, 1959.
Saskatchewan: Trade Union Act. 1944. Amended in 1945, 1946, 1947, 1950.	R.S.S. 1953, c. 259. Amended in 1954, 1955, 1956, 1958.

bodies. Any corporation established to perform any function or duty on behalf of the Government of Canada is covered by the federal Act unless it is excluded by Order-in-Council. In 1948, the National Research Council and Canadian Arsenals Limited were excluded, and in 1958 part of the Canadian Arsenals operations, the plants at Long Branch and Lindsay, were brought back under the Act.

The Newfoundland Act has the same provision as the federal Act. No crown companies have been excluded.

In New Brunswick, the Act does not apply to any government agency acting for or on behalf of or as an agent of Her Majesty unless an order in council is passed to make it apply. The New Brunswick Electric Power Commission has been brought under the Act with respect to certain classifications of employees.

The Nova Scotia Act does not apply to any government body whose employees are subject to the Civil Service Act or the Public Service Superannuation Act. An order in council passed February 8, 1956, and still in effect, granted to government employees who are not covered by the Civil Service Act the right to become members of trade unions and established a procedure for negotiation. The Nova Scotia Liquor Commission and the Nova Scotia Power Commission have entered into collective agreements with unions representing their employees in the unit approved by the Minister of Labour under this order. Permission has also been granted to certain trade unions to act as agents of certain employees of the Departments of Highways, Health and Public Works.

As passed in 1948, the Manitoba Act excluded any government body if the management board was appointed by Act of the Legislature or by order-in-council. In 1958 the Act was amended to bring under it five specified corporations and to provide special measures for dispute settlement in these undertakings.

The Acts of the other provinces make no mention of coverage of government corporations. When they do not, it is a question of interpretation whether the general rule that the Crown is not bound by a statute except by specific terms applies to crown corporations. Government bodies set up to carry out public utility functions have been considered to be subject to the labour relations legislation in some instances. The situation was clarified in Ontario by the Crown Agency Act, 1959, which specifies that every crown agency of the province with the exception of the Hydro-Electric Power Commission is for all its purposes an agent of Her Majesty. As a result, the interpretation has been that government corporations in Ontario, other than that Commission, are not governed by the Labour Relations Act.

Municipalities

Municipalities and their employees are governed by the Acts of most provinces. The Ontario Act, as passed in 1950, provided that any municipality may declare that the Act does not apply to it, and this provision still stands.

The New Brunswick Act, as passed in 1949, did not deal specifically with the position of municipalities. It was amended in 1951 to provide that any municipality or any municipal board or commission could, by resolution, bring itself under the Act. In 1959 a new provision was substituted, bringing municipalities under the Act unless the municipality by resolution removes itself from the application of the Act, the same situation as prevails in Ontario.*

In all the other provinces municipalties are subject to the Act. In Quebec, municipal and school corporations, while subject to the Labour Relations Act, are subject to special legislation in regard to dispute settlement.

With respect to certain categories of municipal employees, policemen, firemen and teachers, there has been a trend during the period either to remove them from the scope of the general labour relations legislation and place them under special Acts, or to provide special measures for dispute settlement.

Members of a municipal police force are excluded from the labour relations legislation and are subject to special legislation both as regards bargaining and dispute settlement in Ontario and Alberta; they are within the scope of the labour relations legislation but subject to special provisions with respect to dispute settlement in British Columbia, Quebec and Saskatchewan; they are under the Manitoba Act but are subject to the provision that they may not strike; they are under the Act unless excluded by declaration in New Brunswick (the same position as other municipal employees)†; they have been held by a court decision not to be "employees" within the meaning of that term in the Nova Scotia Act, and are therefore excluded; and the question of their position under the Acts of Newfoundland

*In 1961 the provision relating to municipalities was repealed, with the effect that municipalities will be subject to the Act in the same way as other employers.

†A 1961 amendment in Prince Edward Island provides that members of a city, town or village police force may not strike.

and Prince Edward Island† does not appear to have arisen.

Firemen are excluded and subject to special legislation both as regards collective bargaining and dispute settlement only in Ontario. They are under the general labour relations legislation and subject to special dispute settlement provisions in Alberta, British Columbia, Manitoba, Quebec and Saskatchewan. In the other provinces their position appears to be the same as that of other municipal employees.*

Teachers are excluded in Manitoba and Ontario.†

Certification of Bargaining Agents

Provision for the certification of a trade union as the bargaining agent of the employees in an appropriate bargaining unit was in 1950 a common feature of the federal Act and of all the provincial Acts except that of Prince Edward Island. The Canada Labour Relations Board for the field of federal jurisdiction, and a labour relations board in each province, had been set up and empowered to determine the issues necessary to decide questions of representation. By the end of the decade Prince Edward Island had also provided for a certification procedure.

The basis for certification under the federal Act and under most of the provincial Acts is that the Board must be satisfied that the majority of the employees in a unit appropriate for collective bargaining are members in good standing of a trade union, or that, as a result of a vote of the employees in the unit, the Board is satisfied that a majority of them have selected the trade union to be a bargaining agent on their behalf.

The general rule is that a Board may certify a union if it establishes that a majority of the employees in the unit are members of it, and if the Board orders a vote, it may certify if a majority of the employees in the unit vote in favour of the union as a bargaining agent. Under the Nova Scotia Act as amended in 1949, as in the other Acts, the Board may certify a union if it is satisfied that the majority of the employees in the unit are members in good standing of the trade union, but, if a vote is taken, the Board may certify if not less than 60 per cent of the employeess vote and a majority of such 60 per cent vote in favour of the union. The Ontario Act, since 1950, has authorized the Board to certify a union on the basis of union membership only where it has established that 55 per cent of the employees in the unit are members (or on the basis of more than 50 per cent membership in an exceptional case where the Board is satisfied "that the true wishes of the employees are not likely to be disclosed by a representation vote"). The Board is required to order a vote if not less than 45 per cent nor more than 55 per cent are members, and may do so in other cases. The Board may certify on the basis of a vote if more than 50 per cent of all those eligible to vote cast their ballots in favour of the trade union. Employees who are absent from work during voting hours and who do not cast their ballots are not counted as eligible. A similar provision was placed in the Alberta and British Columbia Acts in 1954, the Alberta amendment being spelled out to cover employees absent from work on the day of the vote who did not vote by reason of illness, authorized leave of absence, annual vacation or weekly day of rest. Two new categories were added to this provision in 1960, namely those who have been laid off or whose employment has terminated.

The basis for certification remains somewhat different in the Saskatchewan Act. A vote is to be directed if the applicant union establishes that in the six months preceding the application 25 per cent of the employees have indicated their choice of the union by membership or by written authorization. Unless the Board is satisfied that another union has a clear majority, or unless a representation vote has been held in the preceding six months, it is required by the Act to hold a vote. The Act further provides that a majority of those eligible to vote constitute a quorum and a majority of those voting determine the question of representation.

Each Board has had to determine what rules it will apply in determining who is a member in good standing for the purposes of the Act. Most of the Acts specifically state that "if in any proceedings before the Board a question arises under this Act as to whether . . . a person is a member in good standing of a trade union, the Board shall decide the question and its decision is final and conclusive for all the purposes of this Act." Another question that has arisen under some Acts has been the date as of which evidence of membership should be accepted. On both these matters a number of amendments to Acts and regulations have been made in the ten-year period.

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*A 1961 amendment in Prince Edward Island provides that full-time employees of a fire department may not go on strike.

†In British Columbia and New Brunswick also by 1961 amendments.

Two principles have been followed in laying down the conditions under which a person will be recognized as a union member for the purposes of the Act: that the Board satisfy itself that the requirements of the particular union constitution have been met in each case, or, alternatively, that the applicant union be required to produce certain prescribed evidence of membership satisfactory to the Board.

The Alberta Act as amended in 1954 adopts the first principle—"membership in good standing according to the constitution and by-laws of the union". Under the British Columbia Act, since it was replaced in 1954, the other principle is followed. If the applicant union claims that a person is a union member, two conditions, laid down in Board regulations, have to be met to establish union membership for the purposes of the Act; first, the person must have signed an application for membership, and second, must have paid at least one month's dues for or within a defined period (approximately three months) before the date of the application. A person who has joined the union during that period has to have paid an admission fee at least equal to one month's dues.

The Manitoba requirements, also amended during the period, are a combination of the two approaches. The tests for determining membership, adopted in the rules of procedure and practice of the Board in 1953 and incorporated in the Act when it was amended in 1957, specify that no person is a member in good standing of a union for the purpose of certification if, at the date of the application, he is excluded from membership in the union by the express terms of the union constitution. A person must have been a member in the three month period before the application, not suspended "either by direct action by the union or automatically by the terms of the constitution of the union," and have paid at least a month's dues at the regular rate during that period. A new member during that three-month period, as well as making application in writing, and paying the initiation fee prescribed by the union constitution, or, if none is prescribed, paying one month's union dues or one dollar, whichever is the greater, must have been "received into the union in the manner prescribed in the constitution of the union."

The Prince Edward Island Regulations and Rules of Procedure approved in 1960 also require that the Board must be satisfied that a person was "admitted to membership in the trade union in accordance with its constitution rules and by-laws," as well as requirements with respect to the payment of an initiation fee and monthly dues.

Under the federal Act and the Acts of New Brunswick, Newfoundland, Nova Scotia, Ontario and Quebec the rules for establishing membership in good standing were not changed in the period. Except in Nova Scotia, where the Board must be satisfied that a person has been admitted to membership in the trade union "in accordance with its constitution, rules or by-laws" the evidence of membership required is generally signed applications for membership and receipts showing payment of union dues in or for a defined period, or, in the case of a new member, an initiation fee in a prescribed amount.

To remove doubt as to the Board's final authority to determine who is a member in good standing, the New Brunswick Act was amended in 1952 to give specific authority for the making of regulations determining when a person was to be deemed a member in good standing of a trade union. Similarly, a provision was inserted in the Ontario Act in 1954 empowering the Board to determine the form in which evidence of membership in a trade union should be presented to the Board.

Several Acts were amended (Alberta, British Columbia and Saskatchewan in 1954 and Manitoba in 1957)* to state expressly that, in dealing with an application for certification, the Board should consider the number of members in good standing at the date of the application. In the Saskatchewan amendment, the Board was given absolute discretion to refuse to consider evidence concerning any event happening after the date on which the application was filed with the Board.

In Quebec, a similar rule was laid down in 1955. An amendment to By-law No. 1 of the Quebec Labour Relations Board stated that the date used for computing the membership of a union should be the one on which the application was filed with the Board. Previous to 1950, the same date had been fixed upon in the federal, New Brunswick, Nova Scotia and Newfoundland jurisdictions.

In order to prevent any discrimination against an individual by reason of the exercise of his right to join a trade union of his choice, the Acts of most jurisdictions stipulate that membership records placed before the Board are to be confidential.

Amendments were made to the New Brunswick Act in 1952 providing that membership records of a trade union which were produced in proceedings before the Board

*New Brunswick in 1961.

were for the exclusive use of the Board and were only to be disclosed with the Board's consent. They further provided that, unless the Board gave its consent, no person might be compelled to disclose whether a person was or was not a member of a trade union or did or did not desire to be represented by a trade union.

In the latest (1960) revision of the Alberta Act a new section was added, clearly stating that the Board is not required to divulge the names of any persons who are or are not members of a trade union.

Applications during the Term of an Agreement

All of the Acts lay down certain conditions under which an application for certification is barred because of an existing collective agreement. Under the federal Act, an application may not be made during the first ten months of the term of a collective agreement—a so-called "closed season". The Quebec and Saskatchewan Acts, from the time of enactment, have always had a different approach, providing for an "open season" from the 60th to the 30th day before the expiry date of an agreement, no matter what its duration. When the Ontario Act was passed in 1950, regard was had to the trend towards long-term agreements. The Act retained the ten-month "closed season" that had been a feature of the earlier legislation and in addition a new provision set up a new "open season" of two months' duration at the end of each year of the life of a long-term agreement. The Act was again amended in 1958 to provide that where a collective agreement is for a term of not more than two years, an application may be made only after the commencement of the last two months of its operation. That is, there is now no "open season" at the end of the first year of a two-year agreement.

Alberta in 1954 and 1957, British Columbia in 1954, and Manitoba in 1957, have also enacted provisions to give greater stability and greater protection to a bargaining agent that is a party to a long-term agreement. Under these Acts there is now an "open season" only during the 11th and 12th month of each year of the term of an agreement, or during the last two months (to take care of an agreement for a term not in even years). Under the Manitoba Act, notwithstanding the above general rules, the Board is permitted under a 1959 amendment to allow an application to be made at any time if it considers that the employer or employees or both would suffer substantial and irremediable damage or loss if an application were not entertained.

New provisions added to the Alberta Act in 1960 specify that where the parties to an agreement, either before or after the expiry of an agreement, agree to continue its operation for a period less than one year or for an unspecified period while they are bargaining, the continued operation of the agreement does not act as a bar to an application for certification as a bargaining agent. Similarly, where notice to commence bargaining has been given, and the agreement in force provides for its continuation beyond the first fixed date for its termination, such a continuation does not constitute a bar to an application for certification by a third party.

Bargaining Units

One of the important functions of Labour Relations Boards in all jurisdictions in Canada is to determine whether the unit in respect of which an application for certification is made is appropriate for collective bargaining. Any of the Boards, before determining whether the applicant union has sufficient support for certification, may include additional employees in a unit or exclude employees from it.

The Ontario Act was amended in 1954 to specify that the Board may, before determining the unit, conduct a vote of any of the employees of the employer for the purpose of ascertaining the wishes of the employees as to the appropriateness of the unit. Other Boards may also have such authority, if they choose to exercise it, through the general authority to conduct votes on any question affecting employees that is before the Board.

In most of the Acts it is specified that a unit means a group of employees and an appropriate unit may be an employer unit, craft unit, technical unit, plant unit, or any other unit. The test of appropriateness has to be applied by the Board in accordance with the circumstances of each case. The Nova Scotia Act is the only one which seeks to lay down general rules for the Board to follow. It states that the Board in determining the appropriate unit shall have regard to the community of interest among the employees in such matters as work location, hours of work, working conditions, and methods of remuneration. The discretion given the Boards in Alberta and British Columbia to determine appropriate units has been considered to permit the determination of a unit consisting of all the operations which an employer may have or may undertake throughout a defined geographic area.

As amended in 1954, the Ontario Act directed the Board not to include in a bargaining unit with other employees "a person employed as a guard to protect the property of his employer". At the same time, since division into different units would serve no purpose if the same trade union were certified to represent a unit of guards and a unit of other employees, it was provided that if a trade union admits to membership, or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than such guards, it may not be certified to represent them.

While a union is normally composed of the employees of one employer, the federal Act and the Acts of several of the provinces specifically provide that a unit which includes employees of two or more employers may be an appropriate unit, subject to two conditions: that all of the employers consent and that the Board is satisfied that the trade union has majority support among the employees of each of the employers. The British Columbia legislation, until 1954, permitted a multiple employer unit if the majority of the employers consented and the union had a majority in the unit as a whole. The 1954 revision required the union to have majority support among the employees of each of the employers.*

Craft Units

Although all the boards have a wide discretion in determining whether a proposed bargaining unit is appropriate, most of the Acts do lay down a firm direction in respect to craft units. In 1950, most of the Acts (all except those of Quebec, Saskatchewan and Alberta) directed the boards to recognize a craft unit as appropriate if certain conditions were met. The conditions differed slightly, but, in general, there had to be a group of employees belonging to a craft or group exercising technical skills distinguishing them from the employees as a whole, and a majority of the group had to be members of a trade union pertaining to such crafts or skills. The British Columbia and Ontario Acts also laid down the condition of an established trade union practice of separate craft bargaining. (In both these Acts, this condition has been removed during the period.)

In both Manitoba and Ontario, the direction to the board to recognize a craft unit was substantially changed. In a 1957 amendment in Manitoba, the conditions under which a separate unit within an industrial unit may be considered appropriate for a separate certification were stated in terms giving the Board more discretion. Certification is to be granted if, in the board's opinion, the group is otherwise appropriate as a unit for collective bargaining and the circumstances warrant a separation of the group from the employees as a whole.

When the Ontario Act was amended in 1960, the direction to recognize a craft unit was similarly modified. The section which says that if the board finds that any group of employees meets the craft tests it "shall be deemed by the board to be a unit appropriate for collective bargaining" was amended by adding "but the board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made". The effect is that where the employees in a craft group are a part of a plant unit, the board is given discretion to determine whether the craft principle is to override other considerations in the determination of the appropriate bargaining unit.

Other Matters Affecting Certification

Apart from the question of membership and support, each of the Boards is required to satisfy itself that an applicant for certification is a trade union within the definition in the Act, and that it is not company dominated. There have been no substantial changes in respect to these matters in the period, but the legislation has been amended in several provinces to require the Board to take other matters into account.

The Quebec Labour Relations Board was directed, by a 1954 amendment to the Act, not to certify an association which had among its officers or organizers any person adhering to a Communist party or movement. The amendment was made retroactive to 1944, and the Board was directed to revoke any order made contrary to this provision.

In 1960, in Alberta, the Act was amended to state that a trade union was not to be certified if, in the opinion of the Board, application for membership or membership directly resulted from picketing. It provided further that a collective agreement negotiated by an employer and a trade union after such picketing was not to be considered a valid agreement for the purposes of the Act.

An amendment to the Newfoundland Act in 1959 making a union ineligible for certification if persons who had been convicted of certain crimes or offences were retained as officers in a body outside the province

*A 1961 British Columbia amendment requires all the employers to consent, with the result that conditions for multiple employer units are now the same as under the federal Act.

with which it was affiliated was removed in 1960. In 1959, during a dispute in the woods industry in Newfoundland, two local unions were decertified by a special Act of the legislature.

When the Ontario Act was amended in 1960, a provision was added directing the Board not to certify a union if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin. Discrimination by a trade union (or an employer) on these grounds is prohibited by the Fair Employment Practices Act passed in Ontario in 1951, and the Labour Relations Act as enacted in 1950 contained a provision stating that a collective agreement would not be deemed to be a collective agreement for the purposes of the Act if it discriminates against any person because of his race or creed. The amendment in 1960 takes the further step of directing the Board to deny certification to a union which discriminates.*

In Alberta in 1960 the time within which the Board is required to complete its inquiries into an application for certification was extended. Previously 21 days plus a further 7 days, if necessary, the time now allowed is 21 days plus a further 21 (in either case exclusive of Saturdays, Sundays or holidays). Alberta is the only province which has sought to deal with the problem of delays by adhering to a statutory time limit. The problem of increased workloads has led to a panel system in Ontario and Quebec. Amendments in 1959 and 1960 in these provinces have made provision for the appointment of a vice-chairman (and several deputy vice-chairmen in Ontario) so that the Board may sit in two or more panels, perhaps in different parts of the province. To permit this, the legislation now provides that the chairman or a vice-chairman and a representative of employers and a representative of employees constitute a quorum, and such a three-member panel of the Board may exercise any of its powers. The New Brunswick Act was also amended in 1960 to authorize the appointment of a vice-chairman and to permit the Board to function in two divisions. An admendment in Newfoundland in 1960 empowered the Board to authorize any person or board to exercise any of its powers.†

Review of Labour Relations Board Decisions

All of the Acts provide that the decisions the Boards are empowered to make are final. On the other hand, each Board has the power to review its own decisions or orders whenever, in the opinion of the Board, such review is warranted. For example, the federal Act states that "a decision or order of the Board is final and conclusive and not open to question or review, but the Board may, if it considers it advisable so to do, reconsider any decision or order made by it under this Act, and may vary or revoke any decision or order made by it under this Act." In some of the provincial Acts, the legislatures have gone even further by enacting expressly that no decision or ruling of the Board may be questioned or reviewed in any court by way of prerogative writs.

However, in the period under study a number of decisions of the various Boards have been reviewed by the courts. It has usually been held that it was the clear intention of the legislature to make the Board's decision final on the issue of facts, the way the evidence before the Board is interpreted, and the conclusions to be drawn from the evidence presented. But on an issue of law, it has been commonly held that a decision of the Board may be open to review, by way of the prerogative writs such as *certiorari, mandamus* or *prohibition,* on the following grounds: that the Board in exercising its statutory power of discretion acted in bad faith or contrary to natural justice; that it acted without jurisdiction, or exceeded its jurisdiction, or refused to exercise its jurisdiction; that it made an error in law; or the decision was procured by fraud; or that some condition precedent was not fulfilled or some fact collateral to the main issue was not established; or that a decision on a matter preliminary to the main issue was wrong.

Altering Wages and Conditions of Employment

To protect the wages and working conditions of employees during the period when negotiations and conciliation procedures are in progress, and the legislation prohibits strikes, a provision designed to prevent an employer from unilaterally decreasing wages or altering conditions of employment was common to all the Acts in 1950. To prevent undermining the bargaining agent's position, the Acts of Alberta, British Columbia, Ontario, Quebec and Saskatchewan also prohibited increases in wages during the same period, and in Saskatchewan the changes were also prohibited while an application for certification was before the Board.

In 1957, Manitoba and Nova Scotia, and in 1960, Newfoundland, amended their Acts to prohibit increases in wages as well as decreases.

Another change since 1950 has to do with the "freeze" period. In Alberta a 1954

*A similar provision was added to the British Columbia Act in 1961.

†A 1961 amendment to the Department of Labour Act in Manitoba authorized the Manitoba Board also to sit in panels.

amendment provided that wages and conditions of employment could not be changed from the date of an application for certification until it is disposed of and the new British Columbia Act of that year contained a similar provision. In Alberta in 1960 the period was extended until 30 days after the date of certification unless a collective agreement has been entered into. In Nova Scotia in 1957 and in Newfoundland in 1960, changes were prohibited during the time when an application for certification is pending and, if a union is certified, until notice to bargain has been given, as well as during negotiation and conciliation.

A 1957 amendment to the Ontario Act enables a difference between the parties as to whether or not working conditions were altered during the period specified to be referred to arbitration as if the collective agreement concerning which notice was given were still in operation. In Prince Edward Island, a provision was inserted in the Act in 1959, stating that, from the time certification is granted until a collective agreement has been signed, an employer is forbidden to alter any wage rate or any other term or condition of employment without the consent of the employees concerned.

Unfair Practices

The postwar labour relations legislation aimed to provide the ground rules, a code complete in itself, for the parties to the collective bargaining relationship. Besides setting out the rights and obligations of the parties, each of the Acts specified certain things that they were not to do.

The basic rules for employers, found, in slightly different form, in all the Acts, were, first, that they were not to participate in or interfere with the formation or administration of a trade union; second, they were not to intimidate employees with a view to discouraging union membership; and, third, they were not to discriminate against any person in regard to employment because of his trade union membership.

On the trade union side, it was prohibited for any person (in some of the Acts, specifically any trade union, in some, specifically any person acting on behalf of a trade union) to use intimidation to coerce an employee with respect to trade union membership. Further, except with the consent of the employer, a trade union may not solicit the membership of an employee at his place of employment during his working hours.

It was also a provision of the federal Act and of most provincial Acts that a trade union not entitled to bargain on behalf of a unit of employees was prohibited from calling a strike in that unit; and that a bargaining agent was prohibited from calling a strike during bargaining and until the conciliation processes were completed; and during the term of a collective agreement. In these same circumstances, also, employees are not to go on strike. Strike action was appropriate only at the point where a recognized bargaining agent, after duly bargaining in accordance with the Act, had failed to conclude a collective agreement, and the conciliation board's report was in the hands of the parties.

In 1959 and 1960, the legislation of British Columbia, Newfoundland, Alberta and Ontario was amended to attempt to define and prevent certain other activities of employees and trade unions.

In British Columbia, the Trade-unions Act of 1959 made it illegal for a trade union or other person, unless a legal strike or a lockout is in progress, to persuade or endeavour to persuade anyone not to (a) enter an employer's place of business, operations or employment; or (b) deal in or handle the products of any person; or (c) do business with any person. Where there is a legal strike or a lockout, the Act specifies that such persuasion is permitted, if authorized by the trade union whose members are on strike or locked out, and if it is undertaken at the employer's place of business and without acts that are otherwise unlawful. A trade union which does, authorizes or concurs in anything that is contrary to this provision is liable in damages to anyone injured thereby. The act of a member of a trade union is presumed, unless the contrary is shown, to be done, authorized or concurred in by the trade union. Since the most usual form of persuasion is picketing, these provisions have the effect, among others, of making all picketing illegal except picketing at the employer's place of business in support of a legal strike.

In Newfoundland, in the same year, a provision was added to the Labour Relations Act prohibiting "a concerted refusal to use, manufacture, transport or otherwise handle or work on any goods or to perform any services" for certain purposes. These purposes are (a) to force or require an employer or other person to boycott any other person; (b) to force or require any other employer to recognize or bargain with or reach agreement with a trade union; (c) to force or require any employer to assign particular work to employees in a particular trade union or in a particular trade or craft;

(d) to force or require any employee or self employed person to join a trade union. Not only is the activity defined above prohibited, but it is prohibited to encourage any person to engage in the activity. The penalty on conviction for a breach of this section is a fine, not exceeding $5000 for a trade union and, for an individual, a fine not exceeding $500 and in default of payment, imprisonment for not more than three months.

In the following year, the Alberta legislation was amended to prohibit certain activities in connection with a strike that is illegal, under the Act. Where a strike is illegal, a trade union or a member of the trade union or any other person may not "dissuade or endeavour to dissuade anyone from (a) entering an employer's place of business, operations or employment (b) dealing in or handling the products of any person, or (c) doing business with any person." The penalties for contravention of this section are the general penalties under the Act, a fine of not more than $250 and in default of payment, imprisonment for not more than 90 days.

In 1960, also, Ontario added a new provision which states:

> No person shall do any act if he knows or ought to know that, as a probable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lockout.

The provision does not apply to any act done in connection with a lawful strike or lawful lockout. The penalty on summary conviction is a maximum fine of $100 for an individual, $1,000 for a trade union or corporation, and each day that the provision is contravened constitutes a separate offence.

Union Security Clauses

As the Acts stood in 1950, it was clear in most of them that the parties to a collective agreement were free to include in an agreement a provision requiring, as a condition of employment, membership in a specified trade union, or granting a preference of employment to members of a specified trade union. The Prince Edward Island Act specifically prohibited an employer and a trade union from entering into an agreement containing a closed shop clause. The Quebec legislation did not deal specifically with the question of union security clauses—unions and employers are free to enter into agreement "respecting conditions of employment". In the *Paquet* case, (1959) 18 D.L.R. (22) p. 346, the Supreme Court of Canada held that a Rand formula type clause was a "provision respecting conditions of employment." The Saskatchewan Act alone required an employer to accede to a request of a union with majority support to include a union shop clause in an agreement.

Newfoundland and Ontario, in 1960, inserted provisions which somewhat modified the complete freedom of the bargaining agent and the employer to enter into agreements requiring union membership as a condition of employment. The effect of the Newfoundland amendment is that, while such agreements may be made, an employer may employ a person who is otherwise qualified for employment and who has applied for membership in the union but has been refused membership by the union.

The Ontario amendment provides that an employer and an uncertified trade union may not enter into a first agreement containing a clause requiring union membership as a condition of employment unless the union has established at the time it entered into the agreement that not less than 55 per cent of the employees in the bargaining unit were members of the trade union. This limitation does not apply where an employer joins an employers' organization and agrees to be bound by an existing agreement requiring union membership as a condition of employment, nor does it apply to employers and employees engaged on construction projects at the building site. Further, where an agreement requiring membership in the union as a condition of employment has been entered into, an employer may not discharge an employee who has been expelled from the union or denied membership in it because he has engaged in activity against the union or because he is a member of another trade union.

The provisions in the Acts of six provinces requiring an employer to check off union dues at the request of the bargaining agent if the individual employee authorizes such deduction have remained substantially unchanged during the period.*

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*A 1961 amendment in British Columbia prohibited the check-off of union dues unless the union submits to the employer a statement to the effect that none of the checked-off dues will be used for political purposes.

Conciliation Services

The principle of government intervention, if the collective bargaining procedures required by the Act do not lead to agreement, is now common to all the Acts, provision for the services of a conciliation officer having been added to the Prince Edward Island legislation in 1958. The procedures under which conciliation services are made available have not changed substantially in the period. Under the Saskatchewan Act there is no formal procedure for requesting the services of a conciliation officer, but a service is available. If either party requests a conciliation board, the procedure is very similar to that in other provinces. Conciliation services are, in all other provinces, provided at the point at which there is failure, after negotiation, to agree on the terms of a collective agreement and one of the parties requests conciliation services. The Ontario Act, as passed in 1950, required applications for conciliation services to be made to the Board, and placed on the Board the obligation of screening such applications to determine whether the parties had in fact bargained, on the principle that there should have been genuine bargaining between the parties before government assistance was requested.

The two-stage conciliation procedure, first a conciliation officer, and if there is still no agreement, a conciliation board consisting of a nominee by each party, together with a chairman selected by them or by the Minister, has been retained as the normal procedure in all jurisdictions. During the period, the Alberta and British Columbia Acts were amended to make the appointment of a conciliation board more specifically a matter of discretion. An amendment in Alberta in 1950 gave the Board of Industrial Relations the duty of considering the conciliation officer's report and advising the Minister whether a board should be appointed. Somewhat similar changes were made in 1954 in British Columbia by providing that the conciliation officer may make recommendations respecting the matters in dispute and, at the discretion of the Minister, the conciliation officer's recommendations may be sent to the parties and may take the place and have the same effect as the report of a conciliation board, thus becoming the last step in the conciliation procedure.*

All of the Acts specify time limits for the various stages of the conciliation process, but these may be exceeded by agreement of the parties and have frequently been extended. An attempt to cut down the delays by reduction in time limits was made in 1954 in British Columbia and Ontario, and further efforts to cope with the problem of delays were made in Ontario in 1957 and 1960 and in Newfoundland in 1960. In both Ontario and Newfoundland, the Minister was authorized to replace a board member who cannot enter on his duties so as to enable the board to report in a reasonable time (a provision which has been included in the Alberta Act since its passage in 1947). The Minister may also replace a chairman in Ontario if he cannot proceed expeditiously with his duties. In Ontario, also as a result of the 1960 amendment, the board is required to report its findings within 30 days of its first sitting. The 30-day period may be lengthened by one extension of 30 days at the request of the chairman or up to 90 days by agreement of the parties. Any extension beyond 90 days requires the consent of the Minister. If the time limit expires and no extension has been granted, the proceedings are automatically terminated. Where a board is unable to report within the time allowed, or there is no majority agreement, a notification by the chairman to the Minister to this effect constitutes the report of the board.

A provision to enable the parties to a dispute to have the Minister appoint a mediator of their own choosing was inserted in the Ontario Act in 1960. On being appointed by the Minister, such a mediator, who would be paid by the parties, would have the same powers of investigation and inquiry as a conciliation board and his report would have the same effect as the report of a conciliation board. Provision has been made in the British Columbia legislation since 1947 for a mediation committee of the parties' own choosing as an alternative to a conciliation board.

The concept of the main function of the conciliation board has not changed during the period. As expressed in the federal Act, it is "to endeavour to bring about agreement between the parties in relation to the matters referred to it." All the Acts place upon conciliation boards the function of reporting their findings and recommendations to the Minister of

*A provision was added to the British Columbia Act in 1961 to the effect that if a conciliation officer is unable to bring about agreement, and he recommends only that a conciliation board should not be appointed, the Minister may bring the conciliation services to an end by advising the parties in writing that a board will not be appointed.

Labour*, and most of the Acts specify that the Minister may publish the report in such manner as he sees fit. In Ontario, where, since 1950, the legislation has made no mention of publication, reports are not in fact made public, and in British Columbia, only a summary of the majority report. In the other jurisdictions, copies of reports are made available to the press and are available on request.

Under the Alberta legislation throughout the period, a vote of the employees affected has been required on acceptance or rejection of the majority report.

As a result of a provision introduced in 1954, British Columbia has a somewhat similar procedure relating to acceptance or rejection of the recommendations of a conciliation board (or the recommendations of a conciliation officer where his recommendations take the place of a board report). There is not to be a lockout or a strike if the employer and a majority of the employees entitled to vote are in favour of accepting the report.

All the Acts, except the Saskatchewan Act, continue to prohibit strikes and lockouts until the conciliation procedure has been completed†. In Saskatchewan, a strike or lockout may not be commenced during the functioning of a conciliation board, which may be appointed by the Minister upon application of either party to a dispute.

The normal conciliation process described above leaves the parties to a dispute with a recommendation for settlement before them, but they are free to accept or reject it and the prohibition on strikes and lockouts is removed within a short period after the board's report is filed with the Minister, in most Acts seven days.

Provision for an Imposed Settlement

In 1950, Quebec had legislation—the Public Services Employees Disputes Act of 1944—which made provision for binding settlement of disputes in certain "public services", defined to include provincial and municipal government services, hospitals, and a number of public utility services whether publicly or privately owned. The Act prohibited strikes by employees subject to it, and provided some form of arbitration of contract disputes for all groups except civil servants, where the provincial Civil Service Commission was said to be the final authority.

Before 1950, British Columbia and Ontario also had legislation providing for binding arbitration of disputes between municipalities and their policemen and firemen.

Before the end of 1960 a number of other provinces had made provision for final settlement of disputes for certain categories of services. The provisions in effect at the end of 1960 are indicated in the table below.

*A 1961 amendment in Quebec provides that, except in the exceptional case where the parties have agreed in writing to abide by the board's decision, the board will report only that agreement has been reached or that there is still disagreement.

†A 1961 amendment in Quebec brings the period during which strikes and lockouts are prohibited to an end 75 days after receipt of the application for conciliation services (90 days after in the case of a first agreement) even if 14 days have not elapsed after the Minister has received the report of the conciliation board.

PROVISION FOR FINAL SETTLEMENT OF CONTRACT NEGOTIATION DISPUTES

Province	Legislation	Date Settlement Provision First Enacted	Persons or Situations Covered	Method of Prescribing Settlement
Alta.....	1. The Police Act	1953	Members of a municipal police force	Ad hoc arbitration board
	2. The Fire Departments Platoon Act	1954	Full-time firemen	Ad hoc arbitration board
	3. The Alberta Labour Act, s. 99.	1960	A situation where, in the opinion of the Lieutenant-Governor in Council, there exists a state of emergency arising from a labour dispute in such circumstances that life or property would be in serious jeopardy by reason of an interruption of system for supplying water, heat, electricity or gas, or of hospital services.	After an emergency is proclaimed, strikes and lockouts are prohibited. The Minister of Labour is authorized to establish a procedure to assist the parties to the dispute to reach a settlement, and is empowered to do all such things as may be necessary to settle the dispute.

PROVISION FOR FINAL SETTLEMENT OF CONTRACT NEGOTIATION DISPUTES (contd.)

Province	Legislation	Date Settlement Provision First Enacted	Persons or Situations Covered	Method of Prescribing Settlement
B.C.....	Municipal Act, s. 192	1949	Members of a municipal police force; municipal firemen	The recommendation of a conciliation board appointed under the Labour Relations Act is binding upon the municipality or Board of Commissioners of Police and upon the firemen or policemen employed by the municipality.
Man.....	1. Fire Departments Act	1954	Full-time fire fighters	Ad hoc arbitration board
	2. Labour Relations Act, ss. 75–78.	1958	Employees of the Manitoba Power Commission, the Manitoba Telephone Commission, the Manitoba Hydro-Electric Board, and the Winnipeg Electric Company, and those employees of the Liquor Control Commission required for operation or carrying out of the Liquor Control Act	Award of 3-member mediation board chosen from panel nominated by the parties and the Minister of Labour. Either party may appeal the award to the Lieutenant-Governor in Council. After a hearing the Lieutenant-Governor in Council may make an order confirming or varying the award of the mediation board and may declare that uninterrupted operation is essential to the health and well-being of the people of the province. Where a declaration of essential work has been made by the Lieutenant-Governor in Council, strikes and lockouts are forbidden.
Ont.....	1. Fire Departments Act	1947	Full-time fire fighters, if either party applies for arbitration	Ad hoc arbitration board.
	2. The Police Act	1950	Members of a municipal police force, if either party applies for arbitration	Ad hoc arbitration board.
Que.....	Public Services Employees Disputes Act. An Act respecting municipal and school corporations and their employees, 1949, c. 26	1944	(1) Municipal and school corporations. (2) Public charitable institutions within the meaning of the Quebec Public Charities Act (c. 187) (3) Insane asylums. (4) The following businesses: the transmission of messages by telephone or telegraph, transportation, railways, tramways, navigation, or the production, transmission, distribution or sale of gas, water or electricity, —excepting railways under the jurisdiction of the Parliament of Canada. (5) The services of the Government of the Province, but only as regards the functionaries and workmen contemplated by the Civil Service Act (c. 11) and subject to the provisions of the said Act.	(1) Disputes between municipal and school corporations must be referred to arbitration boards set up under "An Act respecting municipal and school corporations and their employees," which hold office for two years. (2) (3), (4)—Disputes between these public services and their employees must be referred to arbitration either under the terms of their collective agreement or as provided in the Quebec Trade Disputes Act (an ad hoc board). (5) The Civil Service Commission shall act as a council of arbitration. Strikes or lockouts are prohibited in all circumstances.
Sask.....	1. City Act	1953	Members of a municipal police force, subject to condition that local union's constitution contains a no-strike clause.	Ad hoc arbitration board
	2. The Fire Departments Platoon Act.	1953	Full-time fire fighters, subject to condition that local union's constitution contains a no-strike clause.	Ad hoc arbitration board

With respect to policemen, the legislation of Alberta, Ontario and Quebec provides that while they may belong to a police association, and such an association may bargain for them, and, if it has majority support, must be recognized by the municipality, they may not belong to a trade union that admits other categories of employees. "An Act respecting public order", passed in 1950 in Quebec, further provided that a trade union that admitted members of a municipal police force would not be eligible to be certified as a bargaining agent. A similar limitation on the right of associa-

tion applies to provincial civil servants in Quebec, who may not belong to an association which has any other category of employees as members.

Special Legislation to Deal with Particular Emergency Disputes

On three occasions during the decade, special legislation was enacted to bring a labour dispute to an end when the normal dispute settlement procedures had failed to bring the parties to agreement and the government considered that an emergency existed.

The first such legislation was the federal Maintenance of Railway Operation Act passed in August, 1950, to bring an end to a general railway strike. The Act required the resumption of operations by the railways and the settlement of the dispute. Operations were to be resumed within 48 hours after the enactment of the legislation, and every employee on strike was required to return to his duties. As an interim settlement, all employees were to receive an increase of four cents an hour. The Act further provided that if the parties were not able to reach agreement, the Government would appoint an arbitrator. The parties did not reach agreement in the prescribed time, and the Government named an arbitrator who made an award in December, 1950.

The second occasion was in the summer of 1958, when a strike tied up the British Columbia Coast Steamship Service of the Canadian Pacific Railway, a shipping operation subject to federal legislation. The situation was considered urgent because certain essential supplies and services to Vancouver Island and coastal points were almost entirely discontinued. To end the strike, Parliament passed the British Columbia Coast Steamship Service Act, requiring the return to work of striking employees, and providing for the appointment of an administrator to restore and maintain services. The terms of the existing agreement, amended so as to increase the rate of wages by eight cents an hour, were to continue to apply until settlement was reached. The administrator remained in charge until the parties, with the assistance of a federal mediator, reached agreement in February, 1959.

On the same occasion, the British Columbia government intervened to prevent a work stoppage affecting Black Ball Ferries, a service subject to provincial jurisdiction. During the strike in the C.P.R. service, the Black Ball Ferries were the last remaining service between Vancouver Island and the mainland. The Government issued a proclamation under the Civil Defence Act of the province declaring that an emergency existed, and a second proclamation bringing into operation sections of the Act giving the Government wide powers to deal with an emergency. Officers and engineers defied a Government order and went on strike. The Government obtained a court injunction ordering the striking employees back to work.

Again in the fall of 1960 the federal Government introduced special legislation to prevent a strike on the railways. The Railway Operation Continuation Act extended the existing collective agreements as defined in the Act until May 15, 1961, directed union officials to notify their members that strike action had been suspended until May 15, 1961, ordered the reinstatement of employees who had been laid off, and stated that on the expiry date of the legislation the rights and privileges of both companies and unions under the Industrial Relations and Disputes Investigation Act would be preserved. An agreement was negotiated in May, 1961.

Jurisdictional Disputes

The certification procedure, by defining the appropriate bargaining unit and determining the exclusive bargaining agent for the employees within it, has been effective in dealing with one area of jurisdictional dispute between unions by settling the question of which union an employer should recognize as representing the employees. Another type of jurisdictional dispute—over the assignment of work—has not been fully settled by this procedure. Three provinces, Ontario, Alberta and Newfoundland, have amended their legislation to attempt to forestall work stoppages over disputes about work assignments.

A 1960 amendment to the Alberta Act made it an unfair labour practice on the part of an employee to refuse to perform work for his employer and on the part of an officer or representative of a trade union to encourage or consent to such refusal, for the reason that other work is assigned to members or non-members of a trade union or other organization. The effect of this provision seems to be to prohibit work stoppage as a means of settling work assignment disputes but there is no special machinery for settlement. The penalties would be the same as in the case of other unfair labour practices.

The Newfoundland Act as amended in 1959 provides that no person shall engage in a concerted refusal to perform any services with a view to forcing or requiring any employer to assign particular work to employees in a particular trade union or in a particular trade or craft rather than the employees in another trade or craft and no trade union or representative of a trade union shall authorize or encourage such a refusal. A specific fine is provided for the breach of this provision but there is no special procedure for enforcing it.

A 1960 amendment to the Ontario Act provides a special procedure for settling this kind of jurisdictional dispute and enforcing the settlement. The Ontario amendment states that the Lieutenant-Governor in Council may appoint one or more jurisdictional disputes commissions composed of one or more persons. The Labour Relations Board, after receiving a complaint that an employer is assigning particular work to employees in a particular trade union rather than to employees in another union, or that a trade union is requiring an employer to do so, may refer the complaint to a jurisdictional disputes commission.

The commission, after consulting any person or organization that in its opinion may be affected by the complaint, may issue such interim order with respect to the assignment of the work as it, in its discretion, deems proper in the circumstances. The employer and trade union and their officials or agents have to comply with the interim order.

When requested by any person or organization affected by the interim order, the commission is directed to reconsider the complaint provided that the party making the request has complied with the interim order. On such a review, the commission has to give to any person or organization affected by the interim order full opportunity to present evidence and to make submissions. When the commission finds that, in its opinion, the trade union or its agents or officials are without justification requiring the employer to assign work, or that the employer is unjustifiably assigning work, it will direct the action to be taken by the employer or the union or by their respective agents or officials as the case may be with respect to the assignment of work, and the organizations or the persons concerned have to comply with the direction. In conducting its inquiries, the commission has all the power of inquiry granted by the Act to a conciliation board.

Unless appealed to the Labour Relations Board, the direction of the commission is final, but the commission may at any time, if it considers it advisable to do so, reconsider and vary or revoke the direction.

Anyone affected by the commission's interim order or direction may within seven days after release of the decision apply to the Labour Relations Board for review of the order or direction.

If the finding of the Board is that the interim order or the direction prohibits a lawful strike or lockout, or restrains the parties from observing the provisions of a collective agreement relating to the assignment of work, or prohibits a trade union or an employer from collective bargaining in respect of employees in a bargaining unit on whose behalf a trade union is entitled to bargain, it may quash the interim order or the direction; or the Board may, if it deems proper, alter the bargaining unit, as defined in a certificate or in a collective agreement, to enable the interim order or the direction to be carried into effect in conformity with other provisions of the Act. In the latter case, the certificate or collective agreement is deemed to have been altered in accordance with the Board's determination.

In the case of non-compliance with an interim order within two days or of a direction within 14 days after their release or after the date provided in the interim order or direction, the Labour Relations Board will, at the request of an affected party, file the commission's decision in the office of the Registrar of the Supreme Court and then an interim order or direction becomes enforceable as a judgment or order of that court.

Where trade unions and employers have made arrangements to resolve disputes arising from the assignment of work, a jurisdictional disputes commission may postpone disposition of a complaint until the parties have dealt with the matter under their arrangement for settlement.

Disputes during Term of Agreement

A feature common to almost all the Acts as they stood in 1950 was a requirement that every collective agreement contain a provision for final settlement without stoppage of work of disputes arising out of the agreement. The legislation adopted the principle that private arbitration was the practical and acceptable method of dealing with questions relating to the interpretation, application, administration or alleged violation of the agreement, and specified that where the agreement did not contain such a settlement provision, the Board (or, under the British Columbia Act, the Minister of Labour) was empowered to prescribe one. Strikes and lockouts were prohibited during the term of the agreement.

The federal Act (and the Acts of Manitoba, New Brunswick, Newfoundland and Nova Scotia) made an exception with respect to a dispute "with reference to the revision of a provision of the agreement that by the provisions of the agreement is subject to revision during the term of the agreement." In such disputes strikes and lockouts were not prohibited, but may not take place until the bargaining and conciliation procedures required by the Act in respect to the negotiation of an agreement have been complied with.

The provision in the Quebec Act was somewhat different, providing that strikes and lockouts were prohibited for the duration of a collective agreement, until the complaint had been submitted to arbitration in the manner provided in the agreement, or failing any such provision, until it had been submitted to a board appointed under the Quebec Trade Disputes Act and 14 days had elapsed since the award was rendered without its having been put into effect.*

The Saskatchewan legislation does not distinguish between disputes during the term of an agreement and other disputes, and in neither case is there any prohibition of strikes and lockouts. Neither does the Prince Edward Island Act deal specifically with such disputes.

Since 1950 in Ontario, the Act has provided that where the parties to a collective agreement have failed to include a settlement clause as required by the Act, the agreement is deemed to contain a clause that is spelled out in the Act, providing for a three-man arbitration board. During the period, Manitoba (in 1957), Alberta (in 1960) and Newfoundland (in 1960) have also amended their Acts to spell out an arbitration clause rather than empowering the Board to prescribe one.

The Acts in Manitoba, Ontario, Alberta and Newfoundland have also been amended to permit the Minister of Labour to make appointments to an arbitration board where, through the failure of the parties, a board is not established.

Further amendments in Ontario in 1960 gave the arbitrator or chairman of an arbitration board powers of investigation and inquiry, authorized the Minister of Labour to intervene if one of the parties complains of undue delay, and established a new procedure to secure implementation of an award. Where there is failure to comply with any of the terms of an award within 14 days, any "party, employer, trade union or employee" affected by the decision may file in the office of the Registrar of the Supreme Court a copy of the operative part of the decision and the decision becomes enforceable as a judgment or order of the court.

Trade Unions: Definition and Legal Status

In the postwar years when the present system of labour relations legislation was being adopted, it was generally accepted that trade unions were voluntary associations without legal status, unable to sue or be sued for damages in their own name as legal entities. Early federal trade union legislation—the Trade Unions Act originally enacted in 1872—provided for registration of trade unions and applied to unions registered under the Act. It provided for acquisition and holding of property by a registered trade union, and although it did not make unions registered under the Act legal entities for all purposes, it granted to such unions a limited legal personality for certain specific purposes. For instance, a registered trade union could initiate legal proceedings against persons who fraudulently obtained or misapplied union funds, and would be subject to prosecution and penalties for failing to have a registered office or failing to transmit to the Registrar the yearly financial statement required under the Act. However, registration was voluntary and unions did not avail themselves of it in significant numbers, so that it has remained upon the statute books without practical application. Also, the question of the constitutional validity of the Act has been raised on the ground that the Act, among other things, deals with property and civil rights.

The definition of trade union contained in the federal and provincial postwar labour relations legislation reflected the common law approach to a trade union as a voluntary association of physical persons having no legal entity of its own. The definitions differ, but the common element is that a

*An amendment in 1961 replaced this provision by one which states that any strike or lockout is prohibited under any circumstances during the period of a collective agreement. A complaint as to the interpretation or application of an agreement must be submitted to arbitration in the manner provided in the agreement, or, in the absence of such a provision, to a three-man arbitration board appointed in accordance with the Quebec Trade Disputes Act. In either case the arbitration award is binding on the parties.

trade union is an organization of employees formed for the purpose of regulating relations between employers and employees, and in this respect the definitions have remained basically unchanged during the past decade. The Nova Scotia Act as originally passed, and the Alberta Act as amended in 1957, add the further stipulation that a trade union has to have a written constitution, rules or by-laws setting forth its objects and defining the conditions under which persons may be admitted as members and continue in membership. Two Acts (the British Columbia Act of 1954 and the Newfoundland Act as amended in 1960) specify that the trade union contemplated by the Act is a local or provincial organization, or a local or provincial branch of a national or international organization. In the Ontario Act, on the other hand, the definition was amended in 1957 to state that the term "trade union" includes a provincial, national or international trade union.

In Quebec, the Labour Relations Act uses instead of "trade union" the term "association" which may be a professional syndicate formed under the Professional Syndicates Act and having legal entity for all legal purposes, or a *bon fide* voluntary association of employees (or employers) having as object the regulation of relations between employers and employees and the study, defence and development of the economic, social and moral interests of its members, with respect for law and authority. Within the above definition of "association", a trade union in Quebec may be a voluntary association as well as a professional syndicate having full legal personality.

The only entities known to the common law are natural persons, corporations, and partnerships. Only a statutory provision could change the unions' status as voluntary associations by giving them legal personality for all purposes or for specified purposes as provided by the legislation, and such legislation could confer upon unions a legal status (whether full or limited) either expressly or by implication. In the latter case, it would be for the courts to interpret the legislation as conferring juridical personality by implication upon trade unions.

The federal and provincial labour relations Acts, as they stood in 1950, in most cases expressly granted unions legal personality for a certain specific purpose, to be prosecuted for a breach of the Act. Most of the decisions of the courts in the first years of the 1950's interpreted these provisions as denying to trade unions legal status for any other purposes, including actions for damages. But the trend of court decisions in British Columbia was different and attempts continued to be made to bring actions against a union in its own name, and it was argued before the courts that the applicable labour relations legislation was sufficient to imply that unions are legal entities and, as such, liable in damages for breaches of the Act or under the common law. The early approach of the British Columbia courts was reaffirmed and, by the end of the decade, it had been held in a number of cases that the legislation had in effect made unions legal entities; and some provinces had amended their legislation, making unions fully fledged entities for any proceeding before the courts, including civil actions for damages. The main developments in British Columbia, under the federal Act, and in each of the other provinces, are briefly described below.

British Columbia

In British Columbia, two Acts had a bearing on the status of trade unions—the Trade-unions Act (originally enacted in 1902) and replaced in 1959; and the Labour Relations Act of 1954 which replaced the Industrial Conciliation and Arbitration Act (enacted in 1947).

The old Trade-unions Act exempted trade unions from liability for communicating certain information and for employing fair arguments without intimidation to induce workmen not to renew contracts; from liability in damages for publishing certain information respecting labour troubles; from liability in damages for any wrongful act in connection with any strike, lockout or trade dispute unless the members or the governing authorities of the union authorized or were a concurring party in the wrongful act.

The British Columbia labour relations Act (Industrial Conciliation and Arbitration Act), which was enacted before the federal Act, did not contain a clause dealing with a prosecution of trade unions for an offence under the Act. However, in various sections, the Act provided for a union's liability to a fine on summary conviction for various offences under the Act. In a series of legal decisions, the British Columbia courts interpreted the provisions of this Act and the Trade-unions Act as making unions legal entities.

In *Hollywood Theatres v. Tenney* (1940), 1 D.L.R. 452, Mr. Justice O'Halloran, of the Court of Appeal, said, for the first time, by way of *obiter dicta,* that the Trade-unions Act recognized unions as legal entities liable in damages for wrongful acts.

In *Patterson and Nanaimo Dry Cleaning and Laundry Workers Union, Local No. 1* (1947) 2 W.W.R. 510, the B.C. Court of Appeal, in proceedings under the I.C.A. Act, considered the question whether a trade union, by reason of the provisions of the Trade-unions Act and the I.C.A. Act, had been constituted an entity in law. Two of the judges expressed the view that such a union was, by virtue of these statutes of the province, an entity (*persona juridica*) distinct from its members.

In a later case, *Vancouver Machinery Depot v. United Steelworkers of America* (1948), 2 W.W.R. 325; (1948) 4 D.L.R. 522, the same court held that an international union which has not been actually appointed a bargaining agent under the I.C.A. Act was nonetheless a legal entity against which an action for damages might be maintained.

The majority view in the *Patterson* case and in *Vancouver Machinery Depot* case was followed in 1957 in *Therien v. International Brotherhood of Teamsters. . .Local No. 213,* (1957) 6 D.L.R. (2d) 746, in interpreting the 1954 Act. Mr. Justice Clyne, of the B.C. Supreme Court, awarded damages against the union sued as a legal entity for the offences committed under the Act. The union's appeal was dismissed by the British Columbia Court of Appeal. Then the union appealed to the Supreme Court of Canada. The Supreme Court, in a decision rendered on January 26, 1960 (1960, S.C.R. 265) upheld the decision of the British Columbia courts and held that the union was a legal entity that may be held liable in its own name for damages, either for a breach of the Labour Relations Act or under the common law. Mr. Justice Locke, when considering the effect of the Labour Relations Act on the question of the union's legal entity and liability for tort said:

> By the Labour Relations Act, S. 2, a trade union as defined includes a local branch of an international organization such as the appellant in the present matter. Extensive rights are given to such trade unions and certain prohibitions declared which affect them. The Act treats a trade union as an entity and as such it is prohibited, *inter alia,* from attempting at the employer's place of employment during working hours to persuade an employee to join or not to join a trade union, from encouraging or engaging in any activity designed to restrict or limit production or services, from using coercion or intimidation of any kind that could reasonably have the effect of compelling any person to become or refrain to become a member of a trade union and from declaring or authorizing a strike until certain defined steps have been taken. By S. 7 if there is a complaint to the Labour Relations Board that a union is doing or has done any act prohibited by Ss. 4. 5 or 6, the Board may order that the default be remedied and, if it continues, the union may be prosecuted for a breach of the Act. By S. 9 all employers are required to honour a written assignment of wages by their employees to a trade union. A union claiming to have as members in good standing a majority of employees in a unit appropriate for collective bargaining is entitled to apply to the Labour Relations Board for certification as the bargaining agent of such employees and, when certified, to require the employer to bargain with it and, if agreement is reached to enter into a written agreement with it which is signed by the union in its own name as such bargaining agent. Throughout the Act such organizations are referred to as trade unions and thus treated as legal entities.
>
> . . . I agree with the opinions expressed by the learned judges of the Court of Appeal in the cases to which I have above referred. The granting of these rights, powers and immunities to these unincorporated associations or bodies is quite inconsistent with the idea that it was not intended that they should be constituted legal entities exercising these powers and enjoying these immunities as such. . .It is necessary for the exercise of the powers given that such unions should have officers or other agents to act in their names and on their behalf. The legislature, by giving the right to act as agent for others and to contract on their behalf, has given them two of the essential qualities of a corporation in respect to liability for tort since a corporation can only act by its agents.
>
> The passage from the judgment of Blackburn J. delivering the opinion of the judges which was adopted by the House of Lords in *Mersey Docks v. Gibbs* (1886) L.R. 1 H.L. 93 at 110, 11 E.R. 1500. . .states the rule of construction that is to be applied. In the absence of anything to show a contrary intention—and there is nothing here—the legislature must be taken to have intended that the creature of the statute shall have the same duties and that its funds shall be subject to the same liabilities as the general law would impose on a private individual doing the same thing. *Qui sentit commodum sentire debet et onus.*
>
> In my opinion, the appellant is a legal entity which may be made liable in name for damages either for breach of a provision of the Labour Relations Act or under the common law.

All the other members of the Supreme Court of Canada agreed with Mr. Justice Locke on this point.

Before the judgment of the Supreme Court of Canada was rendered in the *Therien* case, the British Columbia Legislature in 1959 replaced the Trade-unions Act by a new Act of the same name. Any doubt as to a trade union's capacity to be sued of prosecuted as an entity, or to sue or prosecute, was removed. A trade union (defined in this Act as "an international, national, provincial, or local organization

or association of employees that has for its objects, or one of its objects, the regulation of relations between employers and employees") and an employers' organization were declared to be legal entities "for the purposes of prosecuting and being prosecuted for offences against the Labour Relations Act and for the purposes of suing and being sued under this Act". Also, an employers' organization and a trade union were declared to be liable in damages when

(a) doing, authorizing, or concurring in anything prohibited by the Labour Relations Act; or

(b) failing to do anything required by the Labour Relations Act; or

(c) doing, authorizing, or concurring in anything that is contrary to Section 3 of the Trade-unions Act. (Section 3 prohibits all persuasion, including picketing in case of an illegal strike, as well as all persuasion, including picketing of a secondary employer whether the strike is legal or not).*

Federal Industrial Relations and Disputes Investigation Act

The federal Industrial Relations and Disputes Investigation Act contains a provision dealing with the prosecution of trade unions which reads as follows:

S. 45(1) A prosecution for an offence under this Act may be brought against an employers' organization or a trade union and in the name of the organization or union and for the purpose of such a prosecution a trade union or an employers' organization shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of an employers' organization or trade within the scope of his authority to act on behalf of the organization or union shall be deemed to be an act or thing done or omitted by the employers' organization or trade union.

The Manitoba, New Brunswick, Newfoundland, Nova Scotia and Ontario Acts contained a similar provision. In the early cases under these Acts it was usually held that the legislature had made unions persons for specified purposes only, and any broader interpretation was rejected, but gradually the thinking that had developed in cases under British Columbia legislation began to be applied.

In *Re Canadian Seamen's Union v. Canada Labour Relations Board and Branch Lines Ltd.* (1951), 2 D.L.R., Part 5, p. 356, before the Ontario High Court, Section 45(1) of the I.R.D.I. Act was held to grant a union a legal personality only for the limited purpose of being prosecuted for an offence under the Act. Also, it was held that with the exception of Section 45 "at no place in the Act does it say that a trade union shall be a person or body corporate for the purposes of the Act or for any other purposes". Consequently, the union, in its own name, could neither apply for *certiorari* to quash a decertification order, nor prosecute for breach of the Act, nor sue or be sued in civil actions.

In the years that followed the decision in the Canadian Seamen's Union Section 45(1) of the federal I.R.D.I. Act has remained unchanged. However, in January, 1961, Chief Justice McRuer of the Ontario High Court rendered the decision in *the Matter of an Arbitration between Polymer Corporation Ltd. and Oil, Chemical and Atomic Workers International Union, Local 16-14,* (Can. Law Reports, February 20, 1961, para, 15,341), in which the legal status of a union operating within the provisions of the I.R.D.I. Act was re-examined and the court ruled that the union as such had the capacity to incur liability for damages. The decision of the Court was preceded by the award of an arbitration tribunal constituted to deal with a dispute between Polymer Corporation Ltd. and Local 16-14 of the Oil, Chemical and Atomic Workers International Union. The award granted damages against the union as such for breach of the collective agreement. The union challenged the decision in *certiorari* proceedings and the court upheld the powers of the arbitrators to assess and award damages. Dealing with the problem of the capacity of a union to be liable for damages, Chief Justice McRuer was of the opinion that the principles of law applied by the Supreme Court of Canada in the *Therien* case should be applied in the case under review. In the *Therien* case, the main question was whether a trade union certified as a bargaining agent under the British Columbia Labour Relations Act was a suable entity and liable in damages for tort. The Chief Justice quoted statements made by Mr. Justice Locke from the passage quoted above, which he thought were relevant.

He was of the opinion that when Parliament provided for certification of a trade union with power to compel an employer to bargain with it, and clothed it with power to enter into a collective agreement with the employer, it invested the trade union with those corporate characteristics essential to a capacity to contract within the scope of the purposes of the Act. That being so, it necessarily follows from the

*However, the Supreme Court of British Columbia in *Koss v. Konn* (1961) 28 D.L.R. (2d) Part 4, p. 319, held that the section does not affect information picketing.

Therien case that since the trade union has the legal capacity to enter into a collective agreement, it has imposed on it the responsibility that flows from a breach of the agreement.

The Chief Justice was aware of the fact that the trade union involved in the *Therien* case was certified under the British Columbia Labour Relations Act and the court also considered the effect of the B.C. Trade-unions Act. He considered and compared the relevant sections of the British Columbia legislation with the federal Act and, quite apart from anything that was said in the *Therien* judgment about the Trade-unions Act of British Columbia, he thought nevertheless that the *Therien* decision was compelling authority for the conclusion that he had reached. Later, the judgment of Chief Justice McRuer was upheld in the Court of Appeal.

Manitoba

In Manitoba, the status of trade unions under the Manitoba Act and Section 46 (similar in wording to Section 45 of the federal Act quoted above) was considered in several cases. In *Re the Manitoba Labour Relations Act;* in *Re Int. Union of Operating Engineers, Local Union No. 827, and Manitoba Labour Board,* (1952) 5 W.W.R. (N.S.), p. 264, the Court of Queen's Bench held that a trade union under the Manitoba Act could bring, in its own name, an application for a writ of *mandamus* requiring the Manitoba Labour Board to certify the union as a bargaining agent and for such purposes the union was a *quasi persona juridica* and a representative action was not necessary. The Court distinguished between actions in contract and tort and applications under the Act.

In *Re Peerless Laundry and Cleaners Ltd. v. Laundry and Dry Cleaning Workers Union* (1952), 6 W.W.R. (N.S., Part 10, p. 443), injunction proceedings under the Manitoba Labour Relations Act were brought against the union in its own name. The union contended that not being a legal entity it was not amenable to the injunction proceedings brought in the union's name. The Court of Queen's Bench overruled this objection and held "that the Manitoba Labour Relations Act recognizes trade unions as statutory entities possessing a legal existence apart from their members, and that they are suable entities for the purpose of implementing that Act and for causes of action that may be founded directly upon its provisions or a breach thereof"; consequently, the trade union in question was properly a party to the proceedings.

In *Re Walterson and Laundry and Dry Cleaning Workers' Union and New Method Launderers Limited* (1954), 11 W.W.R., (N.S.), Part 13, p. 645; (1955), 14 W.W.R., Part 12, p. 451, it was held that under Section 46 of the Manitoba Labour Relations Act, a trade union could be prosecuted in its own name, but could not prosecute. The Court of Appeal stressed that Section 46 of the Act is the only provision of the Act giving a trade union a status of legal entity, but for a very limited purpose, namely, to be prosecuted under the Act. The specific provision of this section as to when a trade union could be a party in legal proceedings negated the union's claim that the intention of the Act was to make trade unions legal entities for all purposes within the purview of the Act. The Court of Appeal's conclusion was that a trade union is not a legal entity and may not sue or be sued in civil proceedings and may not prosecute or be prosecuted in criminal proceedings.

In 1959, Section 46 of the Act was amended and the unions were granted a legal status to prosecute in their own name for breaches of the Act. The relevant part of Section 46 as amended (amendment in italics) reads now as follows:

S. 46(1) A prosecution for an offence under this Act may be *brought by or on the information of or* against an employers' organization or a trade union in the name of the organization or union; and for the purposes of such a prosecution a trade union or an employers' organization shall be deemed to be a person;...

In May, 1960, the status of trade unions under the Manitoba Labour Relations Act was raised again before the Court of Queen's Bench in the case of *James Warner and the Manitoba Labour Board et al,* Can. Law Reports, August 30, 1960, para. 15,309. There was no reference made to the Supreme Court decision in the *Therien* case. But, relying on the Supreme Court of Canada decision in *Orchard v. Tunney* (L.G. October, 1957, p. 1214), the court held that the union before the court was a voluntary, unincorporated association and had not been given a "status" by the Labour Relations Act.

However, a year later, in May, 1961, in *Dusessoy's Supermarkets St. James Ltd.* v. *Retail Clerks' Union, Local No. 832,* (Can. Law Reports, June 7, 1961, para. 15,359) before Mr. Justice Monnin of the Court of Queen's Bench, the legal status of trade unions in Manitoba was dealt with again. Mr. Justice Monnin, relying on the Supreme Court decision in the *Therien* case, held the union to be, under the Manitoba Labour Relations Act, a legal entity liable in damages. This was a case of action for

damages against the union as such which was involved in "secondary boycott" activities, and for a permanent injunction that would stop these activities. The union pleaded not to be an entity in law against which the action could be brought. Mr. Justice Monnin, after reviewing the Supreme Court of Canada decision in the *Therien* case and the B.C. labour legislation, posed the question:

> Is our law so unsatisfactory and so unwieldy that a body may be a legal entity for one purpose and not for another? By sections 46 of the Manitoba Labour Relations Act, for the purpose of a prosecution, it is declared that a trade union is a person. Is it restricted to that?

His conclusion was that Manitoba legislation, by granting various rights, powers and responsibilities to these unincorporated associations, intended to, and did, attribute legal personality to trade unions, both for breach of a provision of the Labour Relations Act or under the common law. The Court granted damages against the union as such and other defendants and a permanent injunction against picketing.

Ontario

In Ontario, where the Labour Relations Act passed in 1950 contained a provision similar to Section 45 of the federal Act stating that a prosecution for an offence under the Act could be instituted against a trade union in its own name, there is also the Rights of Labour Act, passed in 1944, which contains the following sections:

> S. 3(2) A trade union shall not be made a party to any action in any court unless such trade union may be so made a party irrespective of any of the provisions of this Act or of The Labour Relations Board Act, 1944.
>
> (3) A collective bargaining agreement shall not be the subject of any action in any court unless such collective bargaining agreement may be the subject of such action irrespective of any of the provisions of this Act or of The Labour Relations Board Act, 1944.

The intention of these provisions appears to have been to preserve the common law status of trade unions as voluntary associations, and to emphasize that in spite of the legislation dealing with agreements, a collective agreement is not thereby made a contract enforceable in court.

The matter of the status of trade unions was raised in 1949 in *Re International Nickel Company of Canada, Limited; Sheddin* v. *Kopinak* (1949) O.R. p. 705, in the Ontario High Court. Mr. Justice Gale, relying on the British Columbia decisions in the *Patterson and Nanaimo Dry Cleaning* and *Vancouver Machinery* cases stated above, was of the opinion that under Ontario labour legislation, a local union chartered by an international union acquired a statutory identity which is distinct from that of their constituent members, and this statutory personality is not affected by the fact that under the Rights of Labour Act unions are denied the capacity to sue and be sued.

When, in 1960, a major revision of the Ontario Labour Relations Act was effected, the section dealing with the prosecution of a trade union for an offence under the Act was not changed. However, a section was added, which provided that proceedings to enforce a determination of the Labour Relations Board in the cases of discrimination or coercion against employees, a decision of an arbitrator or arbitration board, or a decision of a jurisdictional disputes commission may be instituted in the Supreme Court by or against a trade union, a council of trade unions or an unincorporated employers' organization in the name of the trade union, council of trade unions or unincorporated employers' organization, as the case may be.

New Brunswick

In New Brunswick, the provision similar to Section 45 of the federal Act dealing with the prosecution under the Act was judicially tested in 1958 in *Regina* v. *New Brunswick Labour Relations Board ex parte Steevens Motors Ltd. and A.G. for New Brunswick,* Can. Labour Law Reports, Dec. 18, 1958, para. 11,595. The Court, relying on the Manitoba decision in the *Walterson* case, held that while Section 43 (1) of the New Brunswick Labour Relations Act rendered both trade unions and employers' organizations liable to prosecution in their respective names, it did not confer on them legal personality to prosecute for offences committed by the employer under the Act.*

Nova Scotia

In Nova Scotia, Section 45 (1) of the Trade Union Act dealing with prosecution of a union as such has remained unchanged.

Newfoundland

In Newfoundland, the section similar to Section 45 of the federal Act regarding the prosecution of a union in its own name has remained unchanged. However, the Trade Union Act passed in 1960 requires the

*In 1961, an amendment was passed to Section 43 (1) which is similar to that passed in Manitoba in 1959, granting the unions legal entity to prosecute for breach of the Act.

registration of trade unions within the province, and its provisions, combined with amendments made to the Labour Relations Act in 1959 and 1960 appear to make trade unions legal entities for all purposes. The Trade Union Act provides that a trade union before its registration "may be sued in its own name or in the name of any of its members" and so far as registered unions are concerned, it is clear that they may hold real and personal property, that such property shall vest in the trustees, and that all actions, suits, prosecutions and complaints taken by or against a union in respect to such property, shall be taken in the name of the trustees, and that they may sue and be sued, plead and be impleaded. Then the Act states that "all other actions by and against a union registered under this Act shall be taken in the name of the union."

A 1959 amendment to the Labour Relations Act (Section 52A) provided that an action could be taken against a trade union in its own name or against a union officer or agent for any tortious act alleged to have been committed on behalf of the union, and that for the purposes of the action a trade union was deemed to be a person, and was responsible for any act of an officer, member, agent or representative. This section was repealed in 1960, and another provision (Section 25A) inserted, which reads as follows:

S. 25A. Where an employee is on a strike which is not contrary to this Act no action lies against that employee or against a bargaining agent acting on behalf of that employee in respect of damages in contract for which the employer has become liable to another person as a result of the strike but nothing contained in this section shall be deemed to exempt an employee or bargaining agent from any liability for a tortious act.

This implies that in case of an illegal strike, an employee or a bargaining agent are liable for damages incurred by the employer towards a third person as the result of the strike; and that whether there is a strike or not or whether or not the strike is legal, an employee and a bargaining agent are liable for a tortious act.

Prince Edward Island

The Trade Union Act of 1945 did not contain any provision relating to the status of trade unions. In 1953, Section 18 was added, which read:

S. 18. A trade union may sue and be sued by its name as filed with the Provincial Secretary under Section 7, and, if not so filed, then by the name by which it is commonly known.

Alberta

The Alberta Labour Act does not contain a clause similar to Section 45(1) of the federal Act dealing with the prosecution of trade unions for the offences under the Act. However, as in British Columbia, the Act contains provisions referring to prosecution of trade unions for some specific offences under the Act, such as Section 73(7) dealing with collective agreements, or Section 97(1) dealing with penalties for authorizing, calling or consenting to an illegal strike. A general provision dealing with penalties for contravention of the Act as contained in Section 126 refers to "any person" contravening the Act and does not say whether the term "person" might include a trade union.

The issue of legal status of trade unions under the Alberta Act was raised in *Medalta Potteries Limited v. Longride et al* (1947), 2 W.W.R., where a certification of a union as a bargaining agent was challenged. Mr. Justice MacDonald, referring to the British Columbia case of *Patterson and Nanaimo Dry Cleaning and Laundry Workers Union, Local No. 1,* was of the opinion that for the purposes of the Alberta Labour Act and proceedings thereunder, the unions involved in the dispute were legal entities separate and distinct from their members.

Saskatchewan

The Saskatchewan Trade Unions Act, enacted in 1944, contains the following sections:

S. 23. A trade union shall not be made a party to any action in any court unless such trade union may be made a party irrespective of any of the provisions of this Act.

S. 24. A collective bargaining agreement shall not be the subject of any action in any court unless such collective bargaining agreement might be the subject of such action irrespective of any of the provisions of this Act.

In somewhat more definite terms these provisions seem to express the same intention as the sections of the Ontario Rights of Labour Act quoted above.

The Act does not contain any general provision allowing the prosecution of a trade union in its own name for the offences committed under the Act. On the other hand, Section 11(2) provides that a trade union (as well as the Board or any interested person) may apply in its own name to the court for the enforcement of any order of the Labour Relations Board.

Section 12 provides for the prosecution of individuals and corporations for unfair labour practices and for non-compliance

with orders of the Board, but does not mention trade unions being subject to such prosecution.

It would appear that within the provisions of the Saskatchewan Trade Unions Act a trade union could neither be sued nor prosecuted in its own name but could bring in its own name proceedings before the courts for the enforcement of an order of the Labour Relations Board.

In the *Mackay and Mackay* v. *International Association of Machinists Lodge No. 1953* (1946), 3 D.L.R. 38, the Saskatchewan Court of Appeal, in *certiorari* proceedings to quash an order of the Board, held that Section 23 of the Act did not apply to the situation under consideration; the union as such could be named as a party in *certiorari* proceedings challenging the validity of an order of the Board made on the union's application and a representative action was not necessary.

Quebec

In Quebec, trade unions incorporated under the Professional Syndicates Act have full legal status for the purposes of any legal proceedings. The same full legal capacity may be acquired under the same Act by a union or federation of syndicates, as well as by a confederation of unions or federations of syndicates when incorporated under the provisions of the Act.

The legal position of unincorporated trade unions (as well as any other voluntary association) was regulated by "the Act to facilitate the exercise of certain rights" of 1938 which later was incorporated in the Special Procedure Act (R.S.Q. 1941, c. 3421). The provisions of the 1938 and 1941 Acts made it possible to bring legal proceedings against voluntary associations (including unincorporated trade unions) in their own names. Also, these provisions made such an association financially liable with all its resources. This remedy was similar to the representative action used against collective membership of a voluntary association in the common law provinces. However, where the remedy of representative action could be used in legal proceedings *by or against* a voluntary association, the remedy provided in Quebec was limited to the proceedings *against* a voluntary association only. In 1960, the Code of Civil Procedure was amended by incorporating in it these provisions of the Special Procedure Act and by adding a section providing that a voluntary association of employees within the meaning of the Labour Relations Act may plead in courts in its own name for the purposes of any recourse provided by the laws of the province, by depositing in the court with the writ of summons or other proceedings introductive of suit, a certificate issued by the provincial Labour Relations Board that such a group constitutes a *bona fide* association within the meaning of the Labour Relations Act.

In 1958, in *Re Perreault v. Poirier and Dresscutters' Union, Local 205, 262* one of the issues before the courts in Quebec was whether an unincorporated trade union has a legal capacity to sue in its own name. The Superior Court held that voluntary associations had no legal capacity to sue in their own name. The Court of Queen's Bench upheld this view. In 1959, the Supreme Court of Canada upheld the decision of the Quebec courts (1960) 23 D.L.R. (2d), Part 1, p. 61.

The 1960 amendment to the Code of Civil Procedure remedied the situation by allowing an unincorporated trade union to sue in its own name.

Conclusions

It is evident from the above review that the legal status of trade unions has undergone a decided change in the period. At the beginning of the decade, unions were generally held to be voluntary associations, endowed with legal personality only for the limited purpose of enforcement of the obligations placed upon them by the labour relations legislation; a union could neither prosecute in its own name, nor be held liable in damages. A union could prosecute or sue or be sued only by way of representative action.

The line of decisions in the courts of several provinces culminating in the Supreme Court of Canada decision in the *Therien* case has changed this situation. Recently courts have held unions to be legal entities for purposes other than being prosecuted under labour relations Acts and have held them liable in name for damages, either for a breach of the provisions of a labour relations Act or under the common law.

This trend of legal reasoning has been followed in some provinces by statutes declaring unions to be legal entities.

General Enforcement Provisions

There have been no major changes during the period in general enforcement provisions. The federal Act contains a general enforcement provision stating that every person, trade union or employers' organization who does anything prohibited by the Act or who refuses or neglects to do anything required by the Act is guilty of an offence, and except where some other penalty is provided, is liable on summary conviction to a fine. Also, every person, trade union and employers' organization who refuses or neglects to comply with a lawful order of the Canada Labour Relations Board is guilty of an offence and liable on summary conviction to a fine for each day during which such refusal or failure continues. Substantially the same kind of general enforcement provision is contained in each of the provincial Acts, except the Saskatchewan Act, which has a somewhat different approach to enforcement.

The Saskatchewan Act states that the Board has power to make an order requiring any person to refrain from violations of the Act. The reference of a complaint to the Board, and a Board ruling on it, seems to be the normal step preceding any court action connected with violation of the Act. A certified copy of any order or decision of the Board is to be filed within 14 days in the office of a registrar of the Court of Queen's Bench and is enforceable as a judgment or order of that Court. In any application to the Court arising out of the failure of any person to comply with the order filed with the registrar, the Court may refer to the Board any question as to the compliance or non-compliance of such person with the order of the Board. An application to enforce the order may be made to the Court by and in the name of the Board, any trade union affected or any interested person. The Court is bound by the findings of the Board, and is directed to make such orders as may be necessary to cause every party to comply with the order to the Board. There is the further provision that a person who has violated the Act or who fails to comply with an order of the Board is, in addition to any other penalty he has incurred under the provisions of the Act, guilty of an offence and liable on summary conviction to a fine.

In addition to any other penalties imposed under the Saskatchewan Act, the Lieutenant-Governor in Council, upon an application of the Board, may appoint a controller to take possession of and operate any business, plant or premises of an employer who wilfully disregards or disobeys any order filed by the Board until such time as the Lieutenant-Governor in Council is satisfied that the order will be obeyed.

None of the Acts place a duty upon any public authority to initiate prosecutions to secure compliance. The federal Act and the Acts of all the provinces (with the exception of Prince Edward Island) require a consent either from the Minister of Labour or from the Board before a prosecution for an offence may be initiated. Under the federal Act and the Acts of Alberta, Newfoundland and Nova Scotia, it is the Minister who gives the consent; the consent of the Board is required in British Columbia, Manitoba, New Brunswick, Ontario, Quebec (the Board or the Attorney-General), and Saskatchewan.

Special Enforcement Provisions

Special enforcement provisions are contained in all of the Acts relating to some particular obligation or offence, and in respect to these provisions there have been a number of changes since 1950, some of which are outlined below.

Recourse to Administrative Measures Preceding or as Alternative to Prosecution

The federal Act as well as the Acts of Manitoba, Newfoundland and Nova Scotia provide that a person claiming to be aggrieved because of an alleged violation of any provision of the Act may make a complaint in writing to the Minister. The Minister may require an Industrial Inquiry Commission or a conciliation officer to investigate and report. Copies of such a report are sent by the Minister to each of the parties affected and if the Minister considers it desirable, he may publish the report. If the Minister receives a request for consent to prosecute, he is to take into account the report he has received.

The Manitoba provision is slightly different, in that the Minister may refer the complaint either to the Board or to an Industrial Inquiry Commission or a conciliation officer for investigation. Also, that Act does not specifically provide that the Minister is to take the report into account when considering a request for consent to prosecute.

In British Columbia and Saskatchewan, throughout the period under review, the Board has been authorized to deal with unfair labour practice complaints and to

issue remedial orders. Under the Saskatchewan Act the Board's order was enforceable as an order of the Court; under the British Columbia Act a person who failed to comply with an order of the Board was guilty of an offence and could be prosecuted and fined.*

In Quebec, in 1959, the Act was amended to give the Board jurisdiction to deal with a complaint from an employee that he has been dismissed, suspended or transferred because of the exercise of a right granted to him by the Act or because of trade union activities. The Board, if it finds the complaint justified, may order reinstatement and damages for loss of wages. The employer to whom the order is directed is bound to comply with it, and if he fails to do so, the Board may institute an action on behalf of the employee.

In 1960, the Ontario Act was amended to provide that when a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to the Act, the Board may authorize a field officer to inquire into the complaint, and if the field officer is unable to effect a settlement, the Board may inquire into the complaint. If it finds the complaint justified, the Board may determine the action to be taken by the employer or union. If there is failure to comply after 14 days, the person affected may so notify the Board and a copy of the determination will be filed in the office of the Registrar of the Supreme Court of Ontario and will be enforceable as an order of the Court. The provision previously in effect under which complaints of discrimination for union activity could be made to the Minister of Labour was at the same time repealed.

A 1960 amendment to the Alberta Labour Act provides for reference of a dispute to the Labour Relations Board. Where there is a difference between the parties concerning the application or operation of the provisions of the Act dealing with labour relations, either of the parties may refer the difference to the Board. The Board may investigate the difference and endeavour to settle it. If the Board fails to bring about an agreement, it may make recommendations as to settlement of the dispute. Also, if the disagreement continues, the Board has power, subject to the provision dealing with the consent by the Minister to prosecute, to institute whatever action the Board considers to be desirable to ensure compliance with the provisions of the Act.

*A 1961 amendment in British Columbia provided for filing the order of the Board in the office of the Registrar of the Supreme Court of the Province and makes the order enforceable as an order of that Court.

Illegal Strikes and Lockouts

Special procedures introduced in Alberta and British Columbia to deal with illegal strikes and lockouts were in effect during the decade but have now been dropped from the legislation. A 1948 amendment in Alberta authorized the Minister of Labour to refer any strike or lockout to a judge of the Supreme Court of the Province for an adjudication as to its legality or illegality. The Judge making the adjudication was to certify the same to the Minister. If the judge found a strike to be illegal, the collective agreement and the check-off provision became void. Once the illegal strike was terminated, the Minister by order could reinstate the collective agreement. Penalties could also be imposed on summary conviction following the judge's certification to the Minister that the strike was illegal. When the judge certified to the Minister that a lockout was illegal, the employer was guilty of an offence and liable on summary conviction to a fine. In 1954, the provision making the collective agreement and check-off void as a result of an adjudication that a strike was illegal was repealed, and in 1960 the provision permitting reference of such questions to a judge was entirely removed. A provision remains in the Act to the effect that when a trade union has been fined for authorizing an illegal strike, if the fine is not paid in ten days, the magistrate may order the employer to turn over dues deducted under a check-off provision until the fine is paid.

A provision enacted in British Columbia in 1954 also authorized the Minister of Labour to ask a judge of the Supreme Court of the Province for an adjudication as to whether a strike or lockout was legal or illegal. If the judge ruled that a strike was illegal, he could nullify a collective agreement, cancel a union's check-off rights, cancel its certification, or impose all three penalties. These provisions were deleted in 1961.

A provision inserted in the Ontario legislation in 1950 states that where there is a strike that the employer alleges is unlawful, the employer may apply to the Board for a declaration that the strike was or is unlawful. A corresponding procedure is available to employees or a trade union in connection with a lockout which they allege is unlawful.

Recourse to Injunctions in Labour Disputes

Although labour relations legislation in Canada does not look to injunctions as a means of restraining prohibited activities, injunctions have been frequently obtained in the past ten years to restrain certain activity in labour disputes. An injunction is an order made by a court restraining certain named persons from doing certain particular acts. The remedy of injunction originated in the common law of England as it was applied at the time of confederation, and later was amplified or amended by the provincial Judicature Acts or the Rules of the Courts.

In labour disputes the court may grant an injunction when convinced that damage will be done to the plaintiff or his property if an injunction is not granted, and the damage is such as would not be easily compensated by a monetary award. An injunction differs from the legal remedy of damages in that it orders not a money payment but the positive redress of proscribed behaviour.

There are various kinds of injunctions. A restrictive injunction orders a party to proceedings to refrain from doing specific acts, a mandatory injunction orders a party to proceedings to do specific acts. An injunction is called interim or interloculory or temporary when it is granted temporarily before the right has been ascertained by the court. Sometimes a distinction is made between "interim" and "interlocutory" injunction, an "interim" injunction being for a definite period with a fixed beginning and ending, and an "interlocutory' injunction being one granted for an indefinite period until the final disposition of the dispute by the court. An injunction is termed permanent or perpetual or final when granted by the court after the right has been ascertained. An *ex parte* interim injunction is one granted for a short period before the trial and without notice to the opposing party.

In labour disputes connected with strikes and picketing the conduct most often enjoined is that of intimidation, nuisance and trespass. Also a labour injunction may be applied against conspiracy to injure or to commit some unlawful act, and against inducing a breach of contract or interfering with contractual relations.

In 1950, three provinces had legislation relating specifically to injunctions in labour disputes. The British Columbia Trade-unions Act, which dated back to 1902, protected unions from being enjoined or being liable for damages for injuries that might arise out of peaceful picketing or the giving out of information about a labour dispute. In Saskatchewan and in Ontario, the legislation setting out the general rules which the courts follow in issuing injunctions had been amended in 1949 in Saskatchewan and in 1950 in Ontario, to limit the duration of an injunction in a labour dispute to four days if it was issued on the application of one party without a hearing of the other side (an *ex parte* injunction). During the period, New Brunswick, British Columbia, Saskatchewan, Alberta and Ontario passed legislation dealing with injunctions.

A provision was added to the Judicature Act of New Brunswick in 1956, limiting *ex parte* injunctions in labour disputes to five days.

When the British Columbia Trade-unions Act was passed in 1959, it repealed the 1902 Act, and with respect to injunctions, provided that an *ex parte* injunction in respect of any act relating to a strike or lockout that is not illegal under the Labour Relations Act may only be granted to safeguard public order or to prevent substantial or irreparable damage to property. Further, when an *ex parte* injunction is granted under these conditions, it may not be for a period longer than four days.

In the same year, in Saskatchewan, an amendment to the Queen's Bench Act prohibited the making of *ex parte* injunctions in connection with a labour dispute, and set out the requirements with respect to notice to the party against whom the injunction is sought. A notice of motion, along with a copy of the affidavit intended to be used in support of the application, may be served upon any officer of the trade union, or, if no such person resides in Saskatchewan, upon a representative of the union employed by the applicant. If notice cannot be served upon any of these persons, the judge may prescribe other measures to be taken.

In 1960, in Alberta, the Judicature Act was amended to provide that where a strike or lockout exists in a labour dispute to which the Alberta Labour Act applies, an *ex parte* injunction may not be issued to restrain any act in connection with the strike or lockout. A notice of motion is to be served in sufficient time before the hearing to enable the persons served to attend and in no case less than three hours before the hearings. Where members of a trade union are the defendants, the notice may be served upon any officer or member of the trade union or upon any person engaged in the activity to be restrained. Along with the notice of motion there must be served a copy of the affidavits filed in

support of the application. Such an affidavit is to be confined to such facts as the deponent is able of his own knowledge to prove.

In 1960 also, the Ontario Act, which had previously limited *ex parte* injunctions in labour disputes to four days, was amended to provide that any interim injunction is to be granted for four days only and normally following two days' notice to the persons affected. Only where the court is satisfied that a breach of peace, injury to a person or damage to property has occurred or is likely to occur may the notice be dispensed with and the injunction be granted *ex parte*. The two days' notice of the application for an injunction, where the employees to be affected are union members, is deemed to have been given if served upon an officer or agent of the trade union concerned; where the employees to be affected are not union members, such notice should be posted up in a conspicuous place on the employer's business premises; if some of the employees are and some are not union members, the notice should be served upon an officer or agent of the union as well as being posted in a conspicuous place on the employer's business premises.

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